

GOVERNMENT OF THE DISTRICT OF COLUMBIA

**POLICE COMPLAINTS BOARD
OFFICE OF POLICE COMPLAINTS**



**ANNUAL REPORT
FISCAL YEAR 2012**

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GOVERNMENT OF THE DISTRICT OF COLUMBIA POLICE COMPLAINTS BOARD OFFICE OF POLICE COMPLAINTS

February 25, 2013

Dear Mayor Gray, Members of the District of Columbia Council, Chief Lanier,
and Chief Maupin:

We are pleased to submit the 2012 Annual Report for the Office of Police Complaints (OPC) and its governing body, the Police Complaints Board (PCB). This report covers the agency's operations during the District of Columbia Government's fiscal year from October 1, 2011, through September 30, 2012.

In Fiscal Year 2012, the agency continued to handle a large volume of citizen complaints of police misconduct. For the fifth year in a row, the agency received 550 or more complaints. OPC has recorded year-over-year increases in the number of complaints during nine of the agency's twelve years of operation. Beyond its core mission of investigating, adjudicating, and mediating citizen complaints, the agency issued a policy recommendation to the Metropolitan Police Department (MPD), followed up on several others, and conducted outreach to diverse communities and audiences in the District.

The following is an overview of the agency's work during the year:

- Agency personnel assisted 1,241 people who contacted OPC to inquire about filing a complaint. Of this number, 574 filed a formal complaint. Two milestones were reached when OPC recorded its 5,000th complaint and its 10,000th citizen contact. Since OPC opened in 2001, it has fielded over 10,800 contacts with potential complainants and has handled nearly 5,300 complaints.
- OPC investigators worked on 910 complaints, a record number for the agency.
- OPC closed 579 complaints, more than in any previous year, and an increase of 2.8% over last year. The agency also ended the year with 331 open complaints, a 1.5% decrease from last year, and the second consecutive annual decrease in this area.
- As part of investigating these complaints, OPC conducted over 980 interviews, including nearly 540 police officers and more than 445 citizens, and the agency prepared 344 investigative reports.
- OPC complaint examiners adjudicated 14 complaints.
- The agency conducted 35 mediation sessions, 26 of which were successful and led to an agreement between the complainant and subject officer that resolved the complaint. While the total number of mediations is down from the 47 sessions conducted last year, a higher percentage was successful this year. Since its establishment, OPC has mediated 364 complaints, with an overall success rate of approximately 74%.
- PCB issued a report and set of policy recommendations to MPD. The report addressed complaints received by OPC from motorists alleging that they were stopped by MPD officers for minor traffic violations or traffic incidents in which the officers were personally involved. These officers were off-duty, out of uniform, and driving either their personal or police vehicles at the time of the stops. PCB proposed that MPD revise its current policies to clarify

when off-duty officers should engage in traffic enforcement. The report also recommended that MPD consider issuing overall standards of conduct for off-duty officers. PCB further recommended in its report that MPD conduct training on the revised policies and adopt new reporting requirements for off-duty officers who interact with the driving public.

- OPC conducted outreach events in all eight of the District's wards, targeting a variety of audiences, including public school students, tenants of public housing properties, and Latino and African communities in the city.

The agency's employees worked hard and accomplished much in spite of the disruptions and delays caused by staff vacancies at different times throughout the year. OPC also had to bring on board and train a cadre of new complaint examiners after changes in District procurement policies altered the way that the agency retained the services of adjudicators. Through the hiring of six new employees and the addition of eleven complaint examiners, combined with the extensive use of overtime and reallocation of some employees' duties during the fiscal year, the agency is largely back on track with the handling of its cases.

Despite being almost fully staffed by the end of Fiscal Year 2012, the largest impediment to OPC more rapidly resolving allegations of police misconduct is that the number of investigators is not ideal given the volume of citizen complaints. As discussed in this report, OPC investigators have larger caseloads than their counterparts who work for similar agencies in San Francisco and New York City. OPC is mindful of the District's need to allocate scarce government resources even as the economy rebounds, but will continue to work with city officials to ensure adequate staffing and implement cost-efficient strategies in order to resolve citizen complaints in the most timely manner possible.

One of those cost-effective strategies will be to put even more emphasis on working with MPD to clear the large backlog of outstanding requests for documents and evidence in the custody of the Department. These materials are critical in resolving OPC's investigations into police officer misconduct, and delays in their production often translate directly into extended periods of time to complete investigations. The two agencies have worked together throughout the year to identify ways that MPD can furnish police reports and other evidence more quickly to OPC. We have proposed that MPD provide OPC with direct computer access to electronically-stored records. The Department has agreed to assess the viability of granting OPC limited access to specific types of police reports, and we are awaiting the results of this assessment. In the meantime, we note that the Department has made commendable efforts, including dedicating additional staff time, to reduce the backlog and ensure that some OPC documents requests are fulfilled more speedily. We will continue, however, to advocate strongly for full electronic access as the best solution, a practice that exists at some other independent police review agencies.

While access to police documents poses obstacles to the smooth and efficient functioning of a police accountability system, an even greater threat to the integrity of that system arises from MPD's failure to follow District law in fully upholding OPC adjudications of police misconduct. As the annual report details, there have been at least three cases since 2010 where MPD has either partially or fully rejected sustained findings made during OPC adjudications, resulting in MPD failing to impose discipline on some officers found to have engaged in police misconduct. These three cases represent only a small number of all matters adjudicated by OPC that have been sent to MPD for the imposition of discipline since 2001. But OPC is alarmed that all three instances involve OPC adjudications occurring in the recent past. By failing to discipline officers in these cases, MPD has not acted consistent with the requirements of District law. Because public confidence in the city's police accountability mechanism requires that discipline be imposed when officers are found to have engaged in misconduct, we consider these to be serious matters warranting further scrutiny.

Similarly, we are troubled that MPD continued during the fiscal year to exonerate a number of police officers found by our agency not to have cooperated during OPC investigations. The annual report

explores this issue, raising concerns that MPD is -- again -- effectively undermining the legitimacy of OPC's investigative process. We have asked MPD to provide written explanations of the legal bases for the OPC adjudications that were rejected and for the Department's "failure to cooperate" exonerations. We will keep the public and District officials apprised of further developments on both disciplinary fronts.

In addition to resolving individual complaints of police misconduct, the agency has issued a number of policy recommendations over the years. One of the advantages of effective and independent police review is the institutional capacity to follow up and report on the implementation of recommendations for police reform. Overall, we have been pleased with the steps taken by MPD and the city to implement the proposals made by PCB. Appendix A of this annual report contains detailed information on the status of these policy recommendations.

As noted in that appendix, three members of the District Council recently reintroduced legislation that is based on one of our agency's policy recommendations. An additional three council members are co-sponsoring the bill. The "Police Monitoring Enhancement Amendment Act of 2013" would grant our agency the authority to monitor and publicly report on the volume, types, and dispositions of citizen complaints resolved by MPD, as well as the disciplinary outcomes of sustained complaints, in the same way that our annual reports have consistently and publicly furnished this information regarding the complaints handled by OPC. Over time, monitoring would lead to more targeted recommendations for police reform. In addition, we believe that the current police monitoring bill should be amended to provide OPC with unfettered access to underlying police department records that are needed for the oversight role envisioned for OPC. This access would permit robust independent review of, among other things, MPD's disciplinary determinations involving officers in cases sustained by either OPC or MPD. In light of the concerns over MPD's exercise of its disciplinary responsibilities, this could go a long way towards reassuring the public that MPD and the District take police misconduct seriously. We will therefore continue to urge the Council to enact meaningful police monitoring legislation.

We are constantly exploring ways to improve our delivery of services, thereby promoting greater police accountability in the nation's capital. Towards those ends, we look forward to feedback from readers about the information presented in this annual report.

Respectfully submitted,



Kurt Vorndran
Chair
Police Complaints Board



Philip K. Eure
Executive Director
Office of Police Complaints

Table of Contents

I.	Agency Information	1
A.	Agency Structure and Complaint Process.....	1
B.	Police Complaints Board Members	1
C.	Office of Police Complaints Staff	3
II.	The Year in Review	5
A.	Introduction	5
B.	Complaint Examination	5
1.	Decisions in FY 2012.....	6
2.	Final Review Panel	10
3.	Disciplinary Outcomes.....	11
C.	Criminal Convictions	15
D.	Mediation	16
1.	Fiscal Year 2012 Overview.....	16
2.	Mediation Examples.....	17
E.	Investigations	21
1.	Dismissal Example.....	22
2.	Failure to Cooperate by MPD Officers	24
F.	Statistics	27
1.	Contacts and Complaints Received.....	29
2.	OPC Workload and Complaint Processing	30
3.	Characteristics of Allegations	32
4.	Complainant Characteristics	39
5.	Subject Officer Characteristics	43
6.	City Wards	50
G.	Outreach	51
1.	Fiscal Year 2012	51
2.	The Year Ahead	52
H.	Police Oversight and Law Enforcement Organizations	53
I.	Policy Recommendations.....	53
1.	Traffic Enforcement By Off-Duty Officers	53
2.	Status Updates for Policy Recommendations	54

III. The Future	55
Endnotes	56
Appendix A: Policy Recommendation Status.....	59
Appendix B: District of Columbia Police Districts	
Appendix C: District of Columbia Wards	

Tables and Charts

Table 1: Complaint Examiner Decisions (FY08 to FY12)	7
Table 2: Complaint Examiner Decisions by Allegation and Disciplinary Outcomes (FY12). 12	
Table 3: Discipline for Complaints Sustained in FY12, with FY03-FY12 Total	15
Table 4: Discipline for Failure to Cooperate.....	29
Table 5: Contacts and Complaints Received	29
Table 6: Complaints Received per Month	29
Chart 6: Complaints Received per Month.....	29
Table 7: OPC Workload.....	30
Table 7a: Status of Pending Complaints at the End of Each Fiscal Year	30
Table 7b: Disposition of Formal Complaints.....	31
Chart 7: OPC Workload	31
Table 8: Allegations in Complaints by Category	32
Chart 8: Allegations in Complaints by Percentage	32
Table 8a: Specific Allegations of Force	33
Chart 8a: Specific Allegations of Force	33
Table 8b: Specific Allegations of Harassment.....	34
Chart 8b: Specific Allegations of Harassment	35
Table 8c: Specific Allegations of Discrimination	35
Chart 8c: Specific Allegations of Discrimination	356
Table 8d: Specific Allegations of Failure to Identify.....	36
Chart 8d: Specific Allegations of Failure to Identify	36
Table 8e: Specific Allegations of Language and Conduct.....	37
Chart 8e: Specific Allegations of Language and Conduct	37
Table 8f: Specific Allegations of Retaliation.....	37
Table 9: Time of Incidents Leading to Complaints	38
Chart 9: Time of Incidents Leading to Complaints (as a Percentage)	38
Table 10: Complainant Race or National Origin	39
Chart 10: Complainant Race or National Origin (as a Percentage)	39
Table 11: Complainant Gender	40
Chart 11: Complainant Gender (as a Percentage)	40
Table 12: Complainant Age	40

Chart 12: Complainant Age (as a Percentage)	41
Table 13: Number of Complainants Who Filed Multiple Complaints.....	41
Table 14: Complainant Race or National Origin with “Unique Complainant” Information ...	42
Table 15: Complainant Gender with “Unique Complainant” Information.....	42
Table 16: Subject Officer Race or National Origin	43
Chart 16: Subject Officer Race or National Origin (as a Percentage)	43
Table 17: Subject Officer Gender	44
Chart 17: Subject Officer Gender (as a Percentage)	44
Table 18: Subject Officer Assignment.....	45
Chart 18: Subject Officer Assignment (as a Percentage).....	45
Table 19: Subject Officer Age	46
Chart 19: Subject Officer Age (as a Percentage)	46
Table 20: Subject Officer Years of Service	47
Chart 20: Subject Officer Years of Service (as a Percentage)	47
Table 21: Subject Officer Rank.....	478
Table 22: Number of Officers Who Were the Subject of Multiple Complaints	48
Table 23: Subject Officer Race or National Origin with “Unique Officer” Information	49
Table 24: Subject Officer Gender with “Unique Officer” Information	49
Table 25: Subject Officer Assignment with “Unique Officer” Information.....	49
Table 26: City Wards	50
Chart 26: City Wards (as a Percentage)	50
Table 27: Traffic Enforcement By Off-Duty Officers	59
Table 28: Improving the Safety of Bicyclists and Enhancing Their Interactions with Metropolitan Police Department Officers	61
Table 29: MPD Investigation and Reporting of Minor Traffic Accidents.....	63
Table 30: Increasing Public Awareness Of District Of Columbia Laws Governing Mopeds And Motor Scooters	65
Table 31: Monitoring Citizen Complaints That Involve Police Response to Reports of Hate Crime	67
Table 32: Taxicab Drivers and MPD Enforcement of the District’s Taxicab Regulations	68
Table 33: Public Drinking Arrests by MPD Officers on Residential Property	70
Table 34: MPD Provision of Police Service To Persons With Limited English Proficiency (LEP)	71

Table 35: Monitoring Citizen Complaints that are Investigated by the Metropolitan Police Department and the D.C. Housing Authority Police Department.....	74
Table 36: Improving Police-Community Relations Through Diversion of Some Citizen Complaints to a Rapid Response Program.....	74
Table 37: Video Cameras in MPD Police Cruisers.....	74
Table 38: Addressing Biased Policing in Washington, D.C.: Next Steps.....	75

I. AGENCY INFORMATION

A. Agency Structure and Complaint Process

Information about the structure and operation of the Police Complaints Board (PCB) and the Office of Police Complaints (OPC), the agency's history, and the complaint process can be found on OPC's website, www.policecomplaints.dc.gov. This information was also included in the agency's annual reports issued for fiscal years 2001 through 2005.

B. Police Complaints Board Members

The current members of the Board are as follows:

Kurt Vorndran, the chair of the Board, is a legislative representative for the National Treasury Employees Union (NTEU). Prior to his work at NTEU, Mr. Vorndran served as a lobbyist for a variety of labor-oriented organizations, including the International Union of Electronic Workers, AFL-CIO (IUE), and the National Council of Senior Citizens. Mr. Vorndran served as the president of the Gertrude Stein Democratic Club from 2000 to 2003 and as an elected Advisory Neighborhood Committee (ANC) commissioner from 2001 to 2004. He received his undergraduate degree from the American University's School of Government and Public Administration and has taken graduate courses at American and the University of the District of Columbia. Mr. Vorndran was originally confirmed by the District Council on December 6, 2005, and sworn in as the chair of the Board on January 12, 2006. In 2011, he was renominated by Mayor Vincent Gray and confirmed by the District Council, and sworn in on January 5, 2012, for a new term ending January 12, 2014.

Assistant Chief Patrick A. Burke has over 23 years of service with the Metropolitan Police Department (MPD) and currently serves as the assistant chief of MPD's Strategic Services Bureau. He previously served as the assistant chief of the Homeland Security Bureau. During his career with the Department, Assistant Chief Burke has served in four of the seven police districts, the Special Operations Division, the Operations Command, and the Field and Tactical Support Unit. He received his undergraduate degree in criminal justice from the State University of New York College at Buffalo, a master's degree in management from the Johns Hopkins University, a master's degree in Homeland Security Studies from the Naval Post Graduate School's Center for Homeland Defense and Security, and a certificate in public management from George Washington University. He is also a graduate of the Federal Bureau of Investigation's National Academy in Quantico, Virginia, and the Senior Management Institute for Police (SMIP) in Boston. He has also attended counter-terrorism training in Israel.

Assistant Chief Burke has received a variety of MPD awards and commendations, including the Achievement Medal, the Meritorious Service Medal, the Police Medal, and the Lifesaving Medal. He has also received the Cafritz Foundation Award for Distinguished District of Columbia Government Employees, the Center for Homeland Defense and Security's Straub Award for Academic Excellence and Leadership, and the National Highway

Traffic Safety Administration Award for Public Service. In 2011, The Century Council named him one of “20 People to Watch,” and the American Society for Industrial Security named him “Law Enforcement Person of the Year.”

He has served as MPD’s principal coordinator and incident commander for myriad major events, including the 2008 visit by Pope Benedict XVI, the 2008 G-20 Summit, and the 56th Presidential Inaugural in 2009. In addition to PCB, Assistant Chief Burke sits on numerous boards, including the D.C. Police Foundation and the Washington Regional Alcohol Program. He also serves as the chairman of MPD’s Use of Force Review Board. Assistant Chief Burke is an active coach for youth sports and is a member of numerous community and volunteer organizations within the District of Columbia, where he resides with his wife and four children. He was originally confirmed by the District Council as the MPD member of the Board on January 3, 2006, and sworn in on January 12, 2006. In 2011, he was renominated by Mayor Vincent Gray and confirmed by the District Council. The assistant chief was sworn in on January 5, 2012, for a new term ending January 12, 2012. He continues to serve until reappointed or a successor has been appointed.

Karl M. Fraser is an associate director who oversees clinical oncology research at a pharmaceutical company in Rockville, Maryland. Mr. Fraser received his undergraduate degree in biology from Howard University and a master’s degree in biotechnology from Johns Hopkins University. He has been active in his community, including serving as an elected ANC commissioner. Mr. Fraser was originally confirmed by the District Council on December 6, 2005, and sworn in on January 12, 2006. In 2011, he was renominated by Mayor Vincent Gray and confirmed by the District Council, and sworn in on January 5, 2012, for a new term ending January 12, 2014.

Margaret A. Moore, PhD is a leader in the field of corrections. She has more than 25 years of experience in the administration of both state and municipal prison and jail systems. She is the former director of the D.C. Department of Corrections (DOC).

As director of DOC, Dr. Moore had executive oversight for a complex prison and jail system with more than 10,000 inmates, approximately 4,000 employees, and an annual operating budget of over \$225 million. Prior to coming to the District of Columbia, she was deputy secretary of the Pennsylvania Department of Corrections where she provided executive direction for prison operations within the central region of Pennsylvania. She is known for her track record of promoting women and African Americans into correctional leadership positions and continuously advocating for their advancement and representation at all levels of the corrections profession.

Dr. Moore currently holds the position of assistant professor in the Criminal Justice program of the Department of Criminal Justice, Sociology, and Social Work at the University of the District of Columbia. She was originally confirmed by the District Council on June 5, 2007, and sworn in on June 27, 2007. In 2011, she was renominated by Mayor Vincent Gray and confirmed by the District Council, and sworn in on January 5, 2012, for a new term ending January 12, 2013. She continues to serve until reappointed or a successor has been appointed.

Iris Maria Chavez currently serves as assistant field director of the Education Trust, a Washington, D.C., based research, analysis, and practice organization promoting high academic achievement for all students at all levels -- pre-kindergarten through college. In her role at the Education Trust, she oversees the organization's field and outreach operations. Previously, Ms. Chavez served as deputy director for education policy and outreach at the League of United Latin American Citizens (LULAC), where she oversaw state and federal education policy work. In this capacity, she worked to deepen LULAC's understanding of state and federal school reform, and expanded the relationships between the organization's grassroots education advocates and state and federal policymakers.

Prior to LULAC, Ms. Chavez worked as a legislative associate for the Food Research and Action Center (FRAC), where she was a junior lobbyist giving advice on food assistance programs and federal-level governmental processes to the center's state and local network of organizations. Before working at FRAC, Ms. Chavez was employed at the Social IMPACT Research Center of Heartland Alliance for Human Rights and with the group Youth Guidance where she was a social worker in the Chicago Public Schools. Ms. Chavez holds a bachelor of arts degree in sociology, history, and African diaspora studies from Tulane University and a master of arts degree in social policy from the University of Chicago.

Ms. Chavez was appointed by Mayor Vincent Gray and confirmed by the District Council in the fall of 2011, and was sworn in on January 5, 2012, for a term ending January 12, 2012. She continues to serve until reappointed or a successor has been appointed.

C. Office of Police Complaints Staff

OPC has a talented and diverse staff of 21, including seven employees with graduate or law degrees, three of whom are attorneys. The diversity of the office has generally mirrored the District's population. Taking into account all employees hired since the agency opened in 2001, the racial and ethnic composition of the workforce has been as follows: 44.7% African-American, 35.5% Caucasian, 15.8% Latino, 1.3% Asian, and 2.6% biracial. In addition, since its establishment, OPC has administered an internship program that has attracted many outstanding students from schools in the Washington area and beyond. As of September 2012, 76 college students and 38 law students have participated in the program.

The current members of OPC's staff are as follows:

Philip K. Eure became the agency's first executive director in 2000 after working as a senior attorney in the Civil Rights Division at the United States Department of Justice, where he litigated on behalf of victims of employment discrimination. While at the Department, Mr. Eure was detailed in 1997-1998 to Port-au-Prince as an adviser to the Government of Haiti on a project aimed at reforming the criminal justice system. From 2005 to 2012, Mr. Eure also sat on the board of the National Association for Civilian Oversight of Law Enforcement (NACOLE), a non-profit organization that seeks to reduce police misconduct throughout the nation by working with communities and individuals to establish or improve independent police review mechanisms, and served as the organization's president for approximately two of those years. Mr. Eure has spoken at various forums in the District, around the country, and

outside the United States on a wide range of police accountability issues. He received his undergraduate degree from Stanford University and his law degree from Harvard Law School.

Christian J. Klossner is OPC's deputy director. Appointed to this position in September 2010, he joined the agency after serving as an assistant district attorney in the Office of the Special Narcotics Prosecutor of New York City and at the Office of the Bronx District Attorney. He also served as an adjunct professor of trial advocacy at Fordham School of Law. Prior to attending law school, Mr. Klossner worked as a policy advocate and as a staff supervisor with the New York Public Interest Research Group, a not-for-profit advocacy organization focused on environmental, consumer, and government reform issues. He received his bachelor's degree from the State University of New York's University at Albany and his law degree from Fordham University School of Law.

Mona G. Andrews, the chief investigator, was hired in December 2004 as a senior investigator. She was promoted to team leader in December 2005, investigations manager in October 2008, and chief investigator in October 2011. Ms. Andrews came to OPC with 10 years of investigative experience. Prior to joining the agency, Ms. Andrews worked with the Fairfax County, Virginia, Public Defender's Office as a senior investigator where she investigated major felony cases including capital murder, and also developed and coordinated an undergraduate internship program. Ms. Andrews obtained her undergraduate degree in political science and English from Brigham Young University.

Nicole Porter, the agency's special assistant, joined OPC in August 2006. Ms. Porter came to the office from the United States Department of Justice's Civil Rights Division, where she worked on police misconduct, disability, and housing discrimination issues. Prior to her tenure with the Justice Department, she was employed as an attorney with the American Civil Liberties Union of Maryland. Ms. Porter received her bachelor's degree from Tennessee State University and her law degree from the University of Tennessee.

As of the issuance of this report, OPC's other staff members are, listed alphabetically by last name, as follows:

Stephanie Banks	Administrative Officer
Rebecca Beyer	Investigator
KateLyn Claffey	Investigator
Nykisha T. Cleveland	Public Affairs Specialist
Sarah Cordero	Paralegal Specialist
Ora Darby	Senior Investigator
Nydia Figueroa-Smith	Receptionist
Denise Hatchell	Senior Investigator
Dienna Howard	Intake Clerk
Anthony Lawrence	Senior Investigator
Peter Mills	Investigator
Crystal Rosa	Investigator
Kimberly Ryan	Staff Assistant
Arturo Sanchez	Investigator

Andrew Schwartz
Natasha Smith
Shawn Townsend

Investigator
Supervisory Investigator
Investigator

II. THE YEAR IN REVIEW

A. Introduction

In Fiscal Year 2012, OPC experienced a 3.6% increase in the number of people who contacted OPC to inquire about filing a complaint and other agency services (1,198 in Fiscal Year 2011 versus 1,241 in Fiscal Year 2012), and a 3.1% increase in the number of formal complaints (557 in Fiscal Year 2011 versus 574 in Fiscal Year 2012). These numbers continue a trend over the past five years of elevated complaint rates as compared to the earlier years of the agency's existence.

OPC closed 2.8% more complaints than in the previous fiscal year. This increase in closures resulted in OPC finishing the fiscal year, for the second year in a row, with fewer open cases than at the close of the prior fiscal year.

OPC mediated 35 complaints, with the parties reaching an agreement in 26 of the sessions, or 74.2%. These agreements accounted for 7.1% of the 362 complaints resolved by OPC through conviction, adjudication, dismissal, or successful mediation. Successful mediations and sustained complaints together comprised 10.7% of the complaints resolved by the agency.

During the year, PCB issued a report and set of recommendations for police reform to the Mayor, the Council, and the two law enforcement agencies under OPC's jurisdiction. The report and policy recommendation addressed improving MPD's training and policies regarding officer's conduct when enforcing traffic regulation while not on duty.

These accomplishments and others are discussed in more detail below, along with statistics regarding complaints received and closed by OPC in Fiscal Year 2012.

B. Complaint Examination

When an OPC investigation determines reasonable cause to believe misconduct has occurred, the agency refers the matter to a complaint examiner who adjudicates the merits of the allegations. OPC's pool of complaint examiners, or hearing officers, all of whom are distinguished attorneys living in the District of Columbia, has included individuals with backgrounds in private practice, government, non-profit organizations, and academia.

The complaint examiner may make a determination of the merits based on the investigative report or require an evidentiary hearing. If a complaint examiner determines that an evidentiary hearing is necessary to resolve a complaint, OPC takes steps to ensure that complainants have counsel available to assist them at no cost during these hearings. Generally, officers are represented by attorneys or representatives provided to them by the

police union, the Fraternal Order of Police (FOP). OPC has an arrangement with Arnold & Porter LLP, an internationally recognized Washington-based law firm with a demonstrated commitment to handling pro bono matters. During Fiscal Year 2012, Arnold & Porter attorneys provided over 566 hours of pro bono services to OPC complainants.

In Fiscal Year 2012, OPC began internally administering the agency's complaint examination program using existing staff resources. The agency revamped the complaint examination program, developed an orientation and training program for the hearing officers, and put in place oversight mechanisms to help ensure that regulatory deadlines are met. The agency has also engaged in a significant recruitment effort to boost the number of adjudicators by conducting outreach to area law firms and law schools, as well as professional organizations. These efforts resulted in the selection and PCB approval of 11 new complaint examiners. Among this number, four are from academia, including leaders in human rights and community justice law clinics, four are employed at large area law firms, one is a solo practitioner, one is a federal government attorney, and another complaint examiner works as the project director of a non-profit legal service provider.

The agency took over administering the program due to contracting issues that developed in Fiscal Year 2011. This transition caused OPC to begin the next fiscal year with nine cases awaiting assignment to a complaint examiner. There were 11 cases on hold by the time OPC was able to resume its program in December 2011. Thanks to the agency's revitalized program, the selection of a new pro bono provider, and the expansion of the pool of examiners, all 11 of these cases, plus others, were resolved before the close of Fiscal Year 2012.

1. Decisions in FY 2012

A total of 21 complaints, including the 11 cases that had been on hold, were referred to the complaint examination process in Fiscal Year 2012. Sixteen of these were resolved during the fiscal year. Of these 16 matters, 13 were resolved by the issuance of a merits determination. Twelve of these 13 decisions sustained at least one allegation of misconduct,¹ resulting in a complaint examination sustained rate of 92.9%. Please note that this particular sustain rate does not reflect all complaints referred to complaint examination or resolved by OPC. Rather, this percentage reflects the number of sustained complaints adjudicated by a complaint examiner. Thus, this rate does not include complaints that were forwarded to an examiner but not adjudicated, complaints that resulted in a criminal conviction, successful mediations, or complaints dismissed because they lacked merit or because the complainant would not cooperate with OPC's process.

Three of the sixteen referred cases were not resolved by adjudication. In one instance, the complainant withdrew the complaint, which is allowed under OPC's regulations. A second referred case was dismissed after the complainant failed to appear for a hearing and the complaint examiner determined, in accordance with OPC regulations, that the absence was not for good cause. The third case not to be adjudicated after referral was resolved through conciliation, a process similar to mediation, during which the complaint examiner facilitated a discussion between the complainant and officer that resulted in an agreement by the parties that resolved the complaint.

Table 1 summarizes the decisions reached by complaint examiners during the past five fiscal years, and identifies both the frequencies of the different outcomes after referral to a complaint examiner and the percentages reflecting the frequency of different adjudication outcomes.

Table 1: Complaint Examiner Decisions (FY08 to FY12)

	FY08		FY09		FY10		FY11		FY12	
Sustained	9	81.8%	19	86.4%	9	81.8%	7	100%	12	92.9%
Exonerated	1	9.1%	2	9.1%	1	9.1%	--	--	1	7.1%
Insufficient Facts	1	9.1%	--	--	1	9.1%	--	--	--	--
Unfounded	--	--	1	4.5%	--	--	--	--	--	--
Conciliated	--	--	--	--	--	--	--	--	1	N/A
Dismissed	--	--	--	--	--	--	--	--	1	N/A
Withdrawn	--	--	--	--	--	--	--	--	1	N/A
Total	11		22		11		7		16	

As the decisions issued by OPC suggest, the complaint examination process is an important forum where members of the public can raise concerns about possible abuse or misuse of police powers and seek protection of their rights when they may not have that opportunity to do so elsewhere. The features of the District's police accountability system offer complainants a relatively unique opportunity to have complaints investigated and resolved by a government agency independent of MPD and the Office of Public Safety (OPS, formerly District of Columbia Housing Authority Police Department), with its own investigative staff and adjudicators. In general, other available forums – principally criminal and civil court – provide few opportunities to raise these issues or have barriers to entry that inhibit people from pursuing them.

To illustrate the variety of issues addressed by the complaint examination process this year, one examiner sustained allegations against an officer involving unnecessary or excessive use of force and harassment related to an arrest, a second examiner sustained allegations of discrimination and harassment related to a stop and search, and a third examiner sustained an allegation of harassment for an unlawful arrest. In the first two cases, the complaint examiners reached decisions based on OPC's investigative report; in the third decision, the examiner determined that an evidentiary hearing was necessary. These three decisions are discussed in more detail below.

a. Example #1 – OPC #08-0416/08-0418

Two individuals filed separate but related complaints pertaining to the same incident. Complainant #1, a male, was talking with two friends in the courtyard outside of a District of Columbia Housing Authority (DCHA) property. The subject officer in this case was an officer employed by the DCHA Office of Public Safety (OPS). Because Complainant #1 and the officer knew each other prior to the date of the incident, the officer called the man by name over to where he was standing. When Complainant #1 complied with the request, the officer asked the man to follow him to his car, which was parked in a nearby alley. When the two reached the vehicle, the subject officer requested Complainant #1's name, which the man

found strange as the officer had just used it. The officer then asked why Complainant #1 was in the neighborhood. Sensing that something might be wrong, Complainant #1 turned around and started to walk away, giving the officer no response. The officer grabbed the man by the belt and punched him on both sides of the head. Complainant #1 fell face down onto the ground and started bleeding.

Complainant #2, a male acquaintance of Complainant #1, walked into the alley while Complainant #1 and the subject officer were speaking. Upon seeing Complainant #1 hit the ground, Complainant #2 became upset and ran toward his acquaintance yelling, "Please don't hit that guy again!" The subject officer replied, "You're gonna be next," which Complainant #2 interpreted as a threat that he would be next to get hit. Metropolitan Police Department (MPD) officers soon arrived on the scene and a crowd quickly formed. Upon the arrival of MPD officers, the subject officer lunged at Complainant #2 and took a swing at him. Complainant #2 caught the officer's fist and held his arms. An MPD officer intervened and handcuffed Complainant #2, who was then arrested for assault on a police officer and disorderly conduct. Complainant #1 was arrested and charged with assault on a police officer and unlawful entry, and was transported by ambulance to a local hospital where he was diagnosed with a fracture of the bone surrounding his eye socket. Following completion of its investigation, OPC found reasonable cause to believe that misconduct had occurred and referred the matter to a complaint examiner for a merits determination.

The complaint examiner issued a decision without holding a hearing. The examiner sustained the unnecessary or excessive force allegation against the subject officer, finding the amount of force used was unreasonable, excessive, and unnecessary considering that Complainant #1 had not posed a threat to the subject officer's safety and had not been attempting to flee. The complaint examiner also sustained an allegation of harassment based on the subject officer's unlawful arrest of Complainant #1 for assault on a police officer and unlawful entry, finding that Complainant #1 did not directly threaten the officer's safety at any time during the incident. Finally, the complaint examiner sustained an allegation of harassment for the unlawful arrest of Complainant #2 for assault on a police officer and disorderly conduct, finding that yelling at or directing obscenities toward police officers, in itself, does not constitute disorderly conduct or interference with an officer in the course of an arrest.

b. Example #2 – OPC #09-0169

The complainant, an African American man, and his friend, also a black male, were standing and chatting in a Northwest Washington park. As the two men stood and talked, two MPD officers approached. One of the officers (hereinafter referred to as the subject officer) asked the men whether they had been using any drugs or alcohol. Although the complainant told the officers that they had not, the subject officer ordered the complainant to raise his hands, and then frisked him. During the frisk, the subject officer pulled an object out of the complainant's pocket and identified it as a ballpoint pen. When the complainant asked the officers why he and his friend were being detained and if race was a factor in the decision to

detain them, the subject officer threatened to arrest him for disorderly conduct if he did not be quiet.

While conducting the frisk, the subject officer also took the complainant's wallet, removed the man's driver's license out of the wallet, and handed the license to the second officer, who checked the license using police databases. While the check was being conducted, the subject officer searched the complainant's laptop bag. No contraband, drug-related paraphernalia, or alcohol were found. Shortly thereafter, the subject officer returned the complainant's license. The officers then walked further into the park.

The complainant alleged that the subject officer harassed him by stopping and searching him and his belongings, and by threatening to arrest him for disorderly conduct. The complainant also alleged that the subject officer discriminated against him based on his race. OPC found reasonable cause to believe misconduct had occurred and referred the matter to a complaint examiner. The complaint examiner issued a decision without holding an evidentiary hearing after determining that he had all the evidence necessary to resolve the complaint.

The complaint examiner sustained the harassment allegation against the subject officer, finding that the officer did not have the reasonable suspicion required by law to warrant stopping and frisking the complainant and that there was no lawful basis for the subject officer to search the complainant's pockets or laptop. The complaint examiner also credited the complainant's allegation that the subject officer threatened him, ruling that the subject officer's veracity was questionable because he failed to complete the required police paperwork documenting the stop.

Finally, the complaint examiner sustained the allegation that the subject officer had discriminated against the complainant based on his race. While acknowledging that MPD may have received complaints related to drug and alcohol use in the area surrounding the park, the complaint examiner noted that there was no evidence that these complaints were connected to any particular racial group. The complaint examiner further noted that the racial makeup of the area surrounding the park is less than 50% African American. According to police records, however, within a two hour period of complainant's stop, six men were stopped in the park and had their identification checked. Five of the six men stopped were African American. One man was of an unknown race. According to the complaint examiner, the subject officer could not provide a reasonable explanation as to why a disproportionate percentage of African Americans in the park was stopped despite the presence of members of other racial groups. The race discrimination allegation was, therefore, sustained because the subject officer unlawfully singled out the complainant by detaining and searching him.

c. Example #3 – OPC #10-0397

A male complainant was at a nightclub with friends, and there was a dispute about the group's unpaid bar bill. The man stated that he intended to settle the issue after walking his friend to her car. The complainant maintained that the bartender had given him permission to briefly leave the club. When the man attempted to depart, however, he was approached by the security staff and informed that he could not leave until the bill was paid in full. The

complainant explained to the security staff that he had “paid his portion.” When the man attempted to walk around the security staff, they blocked his way and “pushed” him back onto the property. The complainant called 911 because he felt that the security staff had assaulted him. When the subject officer and witness officer responded, the complainant informed them that he had been assaulted by the security staff. The subject officer and witness officer spoke with security staff and returned to the complainant’s location, explaining that he needed to pay the bill in full before leaving the club or he would be arrested. The man then contacted a friend who provided her credit card information over the phone, and the complainant was able to settle his bill.

Once the tab was settled, the complainant approached the subject officer to ask about the alleged assault. He was looking for a police report about the incident to be written up because he still wanted to press charges against the security staff. The subject officer responded, “just go home.” The complainant then asked the subject officer to call a police official to the scene, but the officer again responded, “just go home.” This request was made four times. On the third occasion, the subject officer informed the complainant that if he did not leave, he would be arrested for disorderly conduct. When the man asked for a supervisor a fourth time, the subject officer arrested him on a charge of “Disorderly Conduct – Loud and Boisterous.” Following completion of its investigation, OPC found reasonable cause to believe that misconduct had occurred and referred the matter to a complaint examiner for a merits determination.

After conducting an evidentiary hearing, the complaint examiner sustained the harassment allegation against the subject officer, finding that although the complainant was likely intoxicated, irate, and using a loud voice, the man’s actions did not threaten a breach of the peace as required under the disorderly conduct statute. There was no evidence presented that the crowd around the complainant and subject officer was unruly, that the man’s actions created an unsafe and threatening environment, or that he had attempted to incite violence. The complaint examiner further found that the complainant had a right to question the officer regarding his refusal to call a supervising official to the scene.

2. *Final Review Panel*

The statute governing OPC allows the chiefs of police of the two relevant law enforcement agencies to appeal a complaint examiner decision.² If the police chief determines that a decision sustaining any allegation “clearly misapprehends the record before the complaint examiner and is not supported by substantial, reliable, and probative evidence in that record,”³ the chief may return the decision for review by a final review panel composed of three different complaint examiners. The final review panel then determines whether the original decision should be upheld using the same standard.

In OPC complaint #06-0393, the complainant, a male, had been arrested on a felony threat charge. The complaint examiner, however, found that the statements uttered by the man were not covered under the District’s felony threats prohibition, but rather the complainant had used profane language, which is not an arrestable offense. Further, because the man had not incited the crowd that witnessed his interaction with the subject officer, the examiner found that it would not have been reasonable for the subject officer to have felt threatened. The

complaint examiner also sustained the allegation of unnecessary or excessive force, finding that the subject officer's grabbing of the man around the neck and pushing him to the ground were unreasonable and unnecessary.

In April 2011, OPC forwarded the decision to MPD for the imposition of discipline. In May 2011, the MPD police chief sent a letter to OPC requesting that a final review panel reconsider the complaint examiner's determination. The letter did not set forth the appropriate "appellate" standard and whether the chief believed that the decision clearly misapprehended the record and was not supported by substantial, reliable, and probative evidence. In response, OPC requested that the police chief, in accordance with District law and OPC's governing statute, reference the standard for requesting a final review panel and detail the Department's reasons.

In December 2011, OPC received a letter from the chief of police further elaborating MPD's desire for the decision to be reviewed by a final review panel but again failing to satisfy the legal standard for referral. After a meeting between MPD and OPC, the Department sent a third letter to OPC in February 2012. This letter stated that the chief of police believed that the complaint examiner in this matter had "clearly misapprehended" the record before him and that the decision was not supported by substantial, reliable, and probative evidence in the record. The police chief disagreed with the complaint examiner's decision, asserting that the adjudicator had relied too heavily on the statements of individuals who were friends or acquaintances of the complainant, and that the statements therefore lacked credibility. As this argument properly invoked the correct legal standard, a final review panel comprised of three different complaint examiners was convened to review the two sustained allegations in OPC complaint #06-0393.

The panel upheld the findings. With respect to the harassment allegation, the panel determined that the witness statements were only one of many factors that influenced the original complaint examiner's decision. The panel found that other factors supported the complaint examiner's harassment finding, including inconsistencies in the subject officer's statements to OPC and the D.C. Superior Court, as well as the prosecutor's decision not to pursue the felony threats charge against the complainant. With respect to the unnecessary or excessive force claim, the panel determined that witness statements were only a small portion of what the complaint examiner used in weighing the facts. Panel members did not feel that the complaint examiner had clearly misapprehended the record with regard to either allegation on review.

The determination was returned to MPD for the mandatory imposition of discipline, the outcome of which is discussed below.

3. *Disciplinary Outcomes*

For purposes of imposing discipline, OPC forwards to the appropriate chief of police all OPC decisions that sustain at least one allegation of misconduct. Each law enforcement agency must inform OPC of the discipline imposed for sustained allegations in each citizen complaint. As shown above in Table 1, Fiscal Year 2012 included 12 decisions by complaint examiners and 1 by a final review panel that sustained at least one allegation of misconduct,

thereby requiring the imposition of discipline. OPC sent 11 sustained decisions to MPD and 1 such decision to OPS for discipline to be imposed on a total of 13 individual officers, one of whom was referred twice based on separate and unrelated sustained findings. The agency also forwarded the final review panel decision upholding a previously sustained decision to MPD for imposition of discipline on a single subject officer. Table 2 below lists each of the adjudicated complaints in the order in which they were resolved, identifies the allegations in each complaint, and indicates the decision reached by the complaint examiner for each allegation.⁴ It also shows that discipline has been imposed in eleven of the cases, while in two cases, discipline remains “pending.” Discipline was not imposed as to two of the officers: one officer was “exonerated,” and one officer was not disciplined because MPD believed there was “no preponderance of evidence.” The full text of each decision is available on OPC’s website and through the online legal databases maintained by LexisNexis and Westlaw.

Table 2: Complaint Examiner Decisions by Allegation and Disciplinary Outcomes (FY12)⁵

Complaint Number	Harassment	Excessive Force	Language or Conduct	Discrimination	Failure to Identify	Discipline Determination
08-0591	Sustained					Official Reprimand
09-0227	Sustained					Letter of Prejudice
10-0015			Sustained			PD 750
10-0085			Dismissed on Recommendation of Examiner			N/A
09-0003 (Officer #1)	Exonerated					N/A
09-0003 (Officer #2)	Unfounded					N/A
10-0397	Sustained					Official Reprimand
10-0412	Conciliation Agreement		Conciliation Agreement			N/A
10-0379	Sustained					Official Reprimand
10-0506	Sustained		Sustained			PD 750
08-0416/08-0418	Sustained	Sustained				30 Day Suspension
10-0228	Sustained		Sustained			10 Day Suspension
06-0393 FINAL REVIEW PANEL	Sustained	Sustained				Exonerated
09-0109 (Officer #1)	Sustained	Sustained	Sustained		Sustained	Letter of Prejudice
09-0109 (Officer #2)	Sustained		Sustained		Sustained	Letter of Prejudice
09-0109 (Officer #3)	Sustained		Sustained		Sustained	“No discipline ‘No Preponderance’”
10-0473	Complainant Withdrew					N/A
09-0169	Sustained			Sustained		Letter of Prejudice
09-0316	Sustained					Pending
11-0097			Sustained			Pending

Table 2 shows the discipline determination for each referred OPC complaint. In reporting discipline information, OPC attempts to obtain the final disposition of each matter and keep abreast of any developments that may affect the final disposition. Since the discipline process is reasonably complex and can go on for quite some time, there are subsequent reviews that can occur even after MPD and OPS have taken their final action. As a result, OPC continues to track discipline imposed by these two District law enforcement agencies.

OPC reported in its Fiscal Year 2011 annual report that discipline was pending in OPC complaint #06-0393. This case, as discussed above, was sent to a final review panel in Fiscal Year 2012, and the original sustained findings were upheld. OPC forwarded the determination to MPD for the mandatory imposition of discipline pursuant to District law. MPD responded that the officer was “exonerated,” and no further action would be taken. MPD explained that it had rejected the findings of the review panel after allowing the subject officer to supplement the record during a post-determination proceeding. OPC finds this result troubling, as it was made in direct conflict with District law stating that the decision of a final review panel “shall be binding on the subject police officer or officers and on the Police Chief in all subsequent proceedings as to all essential facts determined and all violations found.”⁶ OPC met with MPD’s chief of police regarding this matter and other issues on February 7, 2013, and requested a written explanation of the Department’s legal rationale.

Subsequent to that meeting, OPC discovered that one of the three officers who were found to have committed misconduct in another matter, OPC complaint #09-0109, was not disciplined. OPC has asked MPD to explain precisely what the outcome was, and the legal basis for it. OPC will follow up with MPD and other District officials, as necessary.

Another illustration of how OPC makes every effort to follow up on disciplinary outcomes stems from an MPD disciplinary determination referenced in OPC’s Fiscal Year 2011 Annual Report. One of the complaints in that report showed a disciplinary outcome of “62-E.” OPC was concerned with the result as a 62-E, also known as a “Job Performance Documentation,” is specifically defined as not being a form of discipline.⁷ Instead, it is used to document non-disciplinary action for “minor performance derelictions,” as opposed to “misconduct requiring disciplinary measures.”⁸ After OPC raised this concern with MPD, the Department agreed that a 62-E is not discipline and was therefore not an appropriate outcome for a sustained decision from OPC. MPD provided assurances that it would take steps to ensure that, going forward, 62-Es would not be issued in cases of sustained misconduct allegations. We are pleased to report that MPD did not issue any such 62-Es in Fiscal Year 2012.

Table 2 shows that MPD issued a “PD 750,” also known as a “Dereliction Report,” to an officer in one sustained complaint. A PD 750 is used “as a record of derelict performance in matters that have not reached a serious level of concern or impact, but which need to be brought to the attention of the member so that conduct can be modified to avoid future problems,” and should describe the specific violation, identify measures needed to correct deficiency, and notify the officer that it may be considered in performance evaluations and

when imposing progressive discipline. This form of discipline is the least severe formal discipline issued by MPD.⁹

Officers in two sustained complaints received a “Letter of Prejudice.” This type of discipline is more serious than a PD 750, and consists of “a written notice to a member outlining the specific misconduct, and future consequence” and may also provide for: additional supervision; counseling; training; professional assistance; and a statement that such action shall be considered in performance evaluations, in deciding greater degrees of disciplinary action, and be used as a basis for an official reprimand or adverse action for any similar infraction within a two-year period.¹⁰

In three instances, MPD reported issuing an “Official Reprimand.” This form of discipline is a commanding officer’s formal written censure for specific misconduct, and is considered in performance evaluations and personnel assignment decisions, and in imposing greater degrees of disciplinary action for offenses committed within a three-year period.¹¹ This form of discipline is more serious than a “Letter of Prejudice.”

The most serious of the discipline types listed in Table 2 is a suspension. Suspension is defined as “a temporary cessation of pay and police authority, with or without a definite date of restoration.”¹² In Fiscal Year 2012, MPD issued a 10-day suspension to an officer who was the subject of one complaint and OPS issued a 30-day suspension to an officer in another OPC case.

The discipline imposed for misconduct in the remaining OPC complaints is listed as “Pending” because MPD has not yet furnished any information. OPC will continue to track complete information regarding discipline outcomes in these cases and report on them in future annual reports.

Table 3 below contains a historical overview of discipline imposed pursuant to sustained decisions by complaint examiners. The table is organized, top to bottom, from the most serious sanctions to the least serious ones. The table below includes two outcomes of “Merits Determination Rejected.” In its Fiscal Year 2010 annual report, OPC reported that MPD’s director of the Disciplinary Review Division (DRD) “dismissed” the sustained charges against one of three subject officers in OPC complaint #08-0043/44 for “no preponderance of evidence.” Since “dismissal” by MPD of OPC-sustained decisions is not an option under District law, OPC sought clarification from the Department. MPD acknowledged that the merits determination as to the subject officer in question was rejected in error and assured OPC that the Department has taken steps to address the issue with the relevant personnel. Despite those assurances, in January 2013, MPD has on two additional occasions, without any apparent legal basis, rejected OPC merits determinations: in one instance, as described in the final review panel section above, and in another instance involving OPC complaint #09-0109. OPC will continue to monitor and report on the disciplinary outcomes to ensure the integrity of the disciplinary process and the city’s police accountability system.

Table 3: Discipline for Complaints Sustained in FY12, with FY03-FY12 Total

Discipline or Action Taken¹³	Outcomes for cases sustained in FY12	Total, FY03-FY12
Terminated		1
Resigned ¹⁴		3
Demoted		1
30-Day Suspension	1	1
20-Day Suspension		6
15-Day Suspension		6
11-Day Suspension		1
10-Day Suspension	1	16
5-Day Suspension		6
3-Day Suspension		10
2-Day Suspension		2
Official Reprimand	3	23
Letter of Prejudice	4	9
Dereliction Report	2	8
Formal Counseling		15
Job Performance Documentation, or "62-E"		1
Unrelated Termination Prior To Discipline Being Imposed		1
Merits Determination Rejected	2	
Pending	2	
Total		110

C. Criminal Convictions

The statute governing OPC states that when the agency determines the allegations in a complaint may be criminal in nature, OPC should refer the complaint to the United States Attorney for the District of Columbia for possible criminal prosecution of the officer(s). OPC makes these referrals on a regular basis after conducting preliminary investigative work, such as interviewing complainants and non-police witnesses, obtaining medical records, police reports, and other documents. During Fiscal Year 2012, OPC did not close any complaints that resulted from criminal convictions.

D. Mediation

A central mission of the Office of Police Complaints is to “foster increased communication and understanding and reduce tension between the police and the public.” One of the primary ways that OPC fulfills this goal is by referring certain complaints to mediation. Mediation allows complainants and officers accused of misconduct to meet face-to-face in a neutral and confidential setting and, with the assistance of a professional mediator, work together to resolve their differences and achieve a mutual understanding of what happened during their encounter.

There are some restrictions on the complaints that may be referred to mediation. OPC will not refer complaints that allege physical injury resulting from an officer’s use of excessive or unnecessary force. In addition, an officer may not mediate a complaint if, in the past 12 months, he or she has mediated a complaint alleging similar misconduct or has had a complaint sustained by OPC for similar misconduct.

If an agreement is reached between the parties, then the complaint is resolved and is not investigated further. Complaints are dismissed when complainants fail to appear or participate in good faith, and OPC pursues discipline of police officers who fail to either appear or participate in good faith in the mediation process.

OPC works with the Community Dispute Resolution Center (CDRC) to provide mediation services. OPC selects appropriate complaints and refers them to CDRC, which schedules the mediation sessions and assigns mediations to members of the diverse pool of experienced mediators, all of whom are selected by OPC’s executive director and approved by the Police Complaints Board.

1. Fiscal Year 2012 Overview

In Fiscal Year 2012, OPC referred 65 complaints for mediation, 35 of which resulted in a mediation session. The parties reached an agreement in 26 of the 35 mediation sessions, or 74%, representing a six-percentage increase from the prior fiscal year. Mediation agreements accounted for nearly 7.2% of the 362 complaints resolved during the fiscal year by OPC through conviction, adjudication, dismissal, or successful mediation. Experts in the field have used these three measures – “the total number of complaints referred for mediation, the percentage of those cases that were successfully mediated, and the percentage of all complaints that were successfully mediated”¹⁵ – to survey and compare the operation of mediation programs used by different citizen oversight agencies.¹⁶ With over 7% of all resolved complaints being resolved through mediation in Fiscal Year 2012, OPC’s performance continues to place it at or near the top when compared to other mediation programs in the United States.

Since the agency’s program began in 2001, 578 cases have been referred to mediation. As noted above, not all complaints that are referred for mediation result in a mediation session, often because the complainant declines to participate in the mediation process. Since the program’s inception, 364 of the 578 referred cases have resulted in mediation, and of these, 270 mediation sessions, or more than 74%, have been successful and

resulted in an agreement that resolved the complaint. The remaining 94 mediation sessions, or 26%, did not result in an agreement and the underlying complaints were referred back to the executive director for appropriate action. To date, mediators have helped resolve complaints that allege harassment; the use of language or conduct that is insulting, demeaning, or humiliating; discrimination; the use of unnecessary or excessive force not resulting in physical injury; failure to provide identification; retaliation; or a combination of the six. OPC is pleased that it has achieved and maintained a noteworthy percentage of cases resolved through mediation agreements.

OPC asks individuals who participate in mediations to fill out an anonymous survey. The results of the surveys from Fiscal Year 2012 indicated that 100% of complainants and subject officers who responded found the mediator to be helpful or very helpful, 91% found the mediation session to be satisfactory or very satisfactory, and 97% found the resulting agreement to be fair or very fair. Since one of the goals of the program is to enhance community-police relations, it is important that such a high proportion of participants leave with a positive view of the mediator and the process. In addition, 49% of the respondents left their mediation session with more positive feelings about the other party, while only 11% had more negative feelings, and 40% indicated no change in their feelings.

In addition to providing the opportunity to resolve complaints in a way that promotes understanding and eases tension, the mediation program yields other benefits that are not produced by investigating complaints. First, mediation can be a more efficient method of resolving some complaints. In Fiscal Year 2012, complaints within OPC's jurisdiction that were resolved through mediation were completed an average of 185 days more quickly than those resolved through dismissal and adjudication. Second, mediation helps to relieve the heavy workload of the agency's investigative staff. OPC estimates that the 26 complaints resolved through mediation approximates the annual number of cases resolved by a full-time investigator. Third, by alleviating investigator caseloads, mediation also decreases the time required to investigate and resolve non-mediated cases.

OPC continues to closely examine complaints under review to identify matters appropriate for mediation. While most cases are referred to mediation shortly after a complaint is received, during the past fiscal year, OPC expanded its consideration to cases that were at a more advanced stage of investigation. The agency compared the outcomes of these "older" cases to those referred more closely to the time when they were initiated, and found the rate of successful resolution was not significantly different between the two groups. Therefore, it was deemed appropriate to continue referring mature cases to mediation when appropriate.

2. *Mediation Examples*

The following examples illustrate the types of complaints that OPC mediated in Fiscal Year 2012.

a. *Example #1*

According to the 32-year-old female complainant, she had driven to a police station to provide a tip about a murder. Once there, the woman asked an officer if she could speak with a detective. The officer was allegedly rude and arrogant, and would not let the complainant speak with a detective without explaining why she needed to do so. The woman explained that she had a tip about a murder. The officer asked the complainant for identification, which she did not have at the time. The officer would not allow the complainant to use a piece of mail for identification and supposedly threatened to arrest the complainant for driving without a license. The woman asked the officer for her name and badge number. After refusing to provide them, the officer ordered the complainant to leave the station. The woman complied without having been able to provide her tip to a detective while at the station.

At the mediation, the complainant recounted her experience at the police station, and explained that due to the sensitivity of the information she was providing, she had wanted to speak to a detective in a private setting. The woman explained that as a result of her experience at the police station, she had to call the MPD tip line to report the information. She described her frustration that she was unable to provide her information to a detective when she went to the police station, and relayed her feeling that the police were not taking seriously the murder or her information about it.

After the officer had an opportunity to listen to the woman's perspective on their interaction, the officer said that although she didn't remember interacting with the complainant, she was extremely apologetic if their interaction went as the complainant indicated. The officer empathized with how the woman must have felt and asked her additional information about the murder. By asking the complainant questions about the murder, the officer learned the murderer had not yet been arrested. The officer also learned that the woman was having difficulty contacting the detective in charge of the case.

As a result of the mediation, the officer agreed to help the complainant get in contact with the detective in charge of the case. The officer provided her direct number to the citizen, in case there was continued difficulty reaching the detective. The complainant was reassured that the police department took her information very seriously and would make use of her information in the process of attempting to solve the murder case.

b. *Example #2*

The complainant, a 38-year-old African American male, filed a complaint citing harassment, discrimination, and inappropriate language and conduct against two officers who pulled him over for running a stop sign. During the traffic stop, one of the officers asked the complainant to get out of his car. As the man got out, he noticed one officer pull out his pepper spray and that the other officer had his hand on his service weapon. The complainant was escorted to the back of his vehicle, where he was placed in handcuffs. One of the officers patted him down and found a bag containing pistachios. The complainant was eventually removed from the handcuffs, issued several warning citations, and sent on his way. The man stated that the officers' aggressive demeanor embarrassed and intimidated him, and was upset

that they implied he was a drug dealer by commenting on the plastic bag recovered from his pocket and the black bags in his vehicle.

The complainant began the mediation session by describing what happened during his interaction with the two police officers. He acknowledged he may have run the stop sign, and explained that he was not necessarily upset for being pulled over but rather for the way he was treated during the stop. The complainant explained that he is a teacher at a school near where he was pulled over and one of the students at that school made a comment about him being pulled over and handcuffed, which embarrassed him. He also told the officers that he did not think it was protocol to have someone get out of their car during a traffic stop. Additionally, the man explained that he felt the comments about the bag in his pocket were made because of the color of his skin.

The officers explained from their perspective what happened during their interaction with the complainant. They described how they saw the man's vehicle pass through the stop sign without so much as a pause at the sign, and said that was the only reason they pulled him over. They explained that they asked him to get out of his car was because he was being very hostile, aggressive, and argumentative when they approached the car. Fearing for their safety, they felt that it would be necessary to put him in handcuffs. In terms of the bag in the man's pants, they only saw a portion of the plastic bag hanging out of his pocket and could not see what was in the bag initially. They were interested in finding out what was in the bag, as the citizen's reckless driving and his hostile and aggressive behavior made the officers suspicious that there was something going on with the complainant other than a normal reaction to being pulled over for running a stop sign.

After all the parties were able to share their perspectives on the incident, the complainant apologized to the officers and acknowledged that his behavior that day could have been perceived as aggressive. He explained that, a few years prior, he had had an extremely negative encounter with a different officer. The officers also apologized to the complainant for upsetting him. After the exchange of mutual apologies, the officers and complainant switched the focus of their conversation to how they could all work together to help local juveniles living in the neighborhood where the complaint and officers work. They discussed various ways the community and officers could work together to keep kids in school and out of trouble and how to help them eventually become successful and productive adults. Each party to the mediation walked away with a better understanding of the situation and, ultimately, a better perspective on how to work together to make their community a better place.

c. Example #3

The complainant, a 46-year-old African American male, alleged that he was harassed and discriminated against by two officers who searched him while he was at a 7-Eleven at approximately 3:00 am. According to the complainant, he was standing at the front counter of the store when the officers approached him. One officer began searching the man's jacket without warning and absent the man's consent. The complainant also stated that the officers

discriminated against him by racially profiling him as a pretext for his unlawful stop and search.

At mediation, the complainant explained to the officers that he had been walking around the store picking up a few items he had wanted to purchase. Upon approaching the counter to pay for the items, the man noticed two officers leaving the store and subsequently looking into his car for a prolonged period of time. When they came back inside the 7-Eleven, one of the officers attempted to open the complainant's jacket. The man explained to the officers that he believed the only reason they attempted to search him without warning was because they were racially profiling him. He explained that he felt extremely violated by them attempting to search him and his jacket without any warning. He also explained how threatened he felt, because his arm had been in a sling due to a recent surgery, and he had no way to protect himself.

After the officers had an opportunity to hear the man's perspective on their interaction, they offered their recollections. According to the officers, the complainant appeared to be concealing something in his jacket. They did not know if he was hiding stolen goods or a gun, but they decided it would be best to investigate. Both officers remembered asking the man several times to unzip his jacket and whether they could search him. The officers explained that because the complainant was not complying with their orders, one of them initiated the search. Upon searching him, they were able to determine that the reason it appeared as if the man was concealing something was because his arm was in a sling, at which point they stopped searching him. They explained that they initially had asked to search him because his jacket appeared to have something in it. The police were concerned that he may have been concealing a gun, and they were looking out both for their safety and the security of the community.

Although the two officers and the complainant did not agree on the specifics of their encounter, the complainant understood that they did not intend for him to feel racially profiled, but were fearful for their own safety and that of others. The complainant recognized that with his arm being in a sling, it may have appeared as if he had something in his jacket. The officers appreciated the opportunity to sit down with the man and explain in a neutral, calm setting, why they wanted to search him. Additionally, the officers recognized that if the complainant did not hear them ask to search his jacket, he could have felt violated and defenseless when they did so. Based on their better understanding of the encounter, the parties agreed that the complaint had been successfully resolved.

E. Investigations

OPC's investigative unit continued its critical work collecting the facts about and analyzing the allegations contained in the police misconduct complaints received by the agency. By statute, OPC has the independence and authority needed to conduct its investigations. For example, while OPC is a District government agency, it is independent of MPD and OPS and is not under the direct control of the Mayor. The agency has its own non-police staff to investigate complaints, and the law vests OPC with subpoena power to gather necessary evidence and requires that the relevant police department cooperate with its investigations. A considerable amount of work goes into investigating each complaint, even when a complaint is ultimately dismissed, and OPC's investigators are responsible for getting this work done.

OPC conducts extensive and thorough investigations of all allegations made by complainants. OPC tracks allegations under six broad categories of misconduct: (1) harassment; (2) use of unnecessary or excessive force; (3) use of language or conduct that is insulting, demeaning, or humiliating; (4) discriminatory treatment; (5) retaliation against a person for filing a complaint with OPC; and (6) failure of an officer to wear or display required identification or to provide a name and badge number when requested to do so by a member of the public. While these six general categories provide a broad picture of the types of issues that arise between citizens and police officers, such interactions are factually varied, and the allegations can range from the very serious to the relatively minor, with many distinct parts to each.

In order to capture more detail about the nature and severity of the general allegations made by complainants, OPC also tracks 65 subcategories of allegations. For example, under the general category of unnecessary or excessive force, there are 21 subcategories that cover the myriad ways that officers use force, including striking an individual with the hand, forcefully pushing an individual to the ground, and directing a police dog to attack an individual. This enhanced classification system was implemented by OPC in 2008 to better track, analyze, and report trends that occur in complaints. The additional detail also helps OPC conduct its investigations by focusing on and specifically identifying all relevant ways that allegations made by a complainant can be misconduct.

The investigative unit was busier and even more productive in Fiscal Year 2012 than in Fiscal Year 2011. OPC received 574 complaints in Fiscal Year 2012 and provided information and assistance to an additional 667 people who contacted OPC, or 3.6% more than the total of 1,198 individuals who contacted OPC in Fiscal Year 2011. The agency resolved 362 investigations, and produced investigative reports in 336, or 92.8%, of those matters. The remaining 26 were successfully mediated. Eight of the 336 investigations required two reports each, as the agency formally dismissed some allegations and referred the remaining ones to a complaint examiner. In total, the agency produced 344 reports during Fiscal Year 2012, which is a significant accomplishment for an agency the size of OPC.

OPC investigations can be complex due to the number of witnesses who must be interviewed and the amount of other evidence that must be gathered and analyzed. The investigators conducted over 980 complaint-related interviews during the year, which

included approximately 538 police officer and 446 citizen interviews, representing 13.2% more interviews than the agency conducted in Fiscal Year 2011. Consistent with OPC's policy of conducting certain witness interviews with two investigators present, a second investigator participated in over half of the interviews.

This work and level of performance were achieved despite the investigative unit's incomplete staffing. The agency had a full complement of investigative staff for only two months of the entire fiscal year. To make up for the vacancies, OPC diverted staff resources from the agency's policy recommendation function and also shifted unspent personnel funding into an overtime program. By doing so, many additional staff hours were spent completing investigations, which allowed the agency to keep pace with the high volume of complaints.

While these measures provided a temporary fix, OPC will eventually need additional investigators to carry out its mission. The agency is presently seeking authorization from the District government to hire additional investigators to keep up with its large caseload. OPC's current staffing levels are not optimal, especially when compared to two other citizen oversight agencies servicing large police departments, namely, New York City's Civilian Complaint Review Board (CCRB) and San Francisco's Office of Citizen Complaints (OCC). Although the three offices are different in size and review the conduct of different-sized police forces, appropriate comparisons can nonetheless be made by looking at average caseloads for each investigator as well as the ratio of investigators to police officers. When compared to these two other agencies, whose investigators have an average caseload of, respectively, 20.4 and 16.2, OPC's investigator caseload of 25.8 was higher by 26% and 59%, respectively.¹⁷ In addition, the other two agencies also have more favorable ratios of investigators to police officers. While OPC has one investigator for every 324 officers, CCRB's ratio is one investigator per 305 officers and OCC's ratio is one investigator for every 113 officers. Notably, and recognizing the link between investigator workloads and agency effectiveness, San Francisco law requires that there be at least one investigator for every 150 officers.¹⁸

The section below provides an example of an investigation that led to a dismissal and discussions of issues affecting the investigative process.

1. Dismissal Example

The complainant, a 50-year-old African American female, alleged that two officers used unnecessary or excessive force against her when they pointed their guns at her and threw her to the ground, and harassed her by searching her vehicle and confiscating her air rifle. The woman further alleged that the two subject officers and four additional subject officers used language toward her that was insulting, demeaning, or humiliating when they made inappropriate comments, including telling her to "shut up."

According to the complainant, she observed teenagers breaking into her car and called 911. Police officers arrived approximately ten minutes later. The woman walked outside with several of her belongings, including her purse and a black trash bag with an air rifle in it. As she walked past the marked police car with two uniformed officers inside, the complainant

said out loud to the officers, "It's me." She then continued to her car, unlocked it, and put the air rifle in the front seat and her other belongings in the back seat. She got into her car, started the engine, and sat in her vehicle for about 10 to 15 minutes waiting for the officers to approach her. During this time, the complainant moved the air rifle from the front seat into the back seat. She then drove up a few feet, turned the car around, and attempted to drive toward the police cruiser to speak to the officers.

As the complainant was about to drive toward the officers, she looked up and saw the two officers pointing their service weapons at her. The officers yelled at her to get out of her car. The woman asked the officers why she had to get out. She then stopped her car and began to emerge from the vehicle, but the two officers allegedly pulled her out in a forceful manner, threw her to the ground, and handcuffed her. Around this time, other officers arrived. While the woman remained on the ground, officers searched her vehicle. She heard an officer say she had pointed a gun at the officers who initially arrived. The complainant continually asked the officers what she had done and why was she on the ground, and told them that she had called the police because someone had broken into her car. According to the woman, officers told her to "shut up."

After the officers finished searching the complainant's car, they released her from the handcuffs. Several of the officers allegedly made inappropriate comments about the air rifle and what she intended to do with it, and they told her that she was not going to get the weapon back. The officers then told the woman she was free to leave.

During its investigation, OPC interviewed the complainant and the six officers whom the agency identified as being present during some portion of the incident. OPC also reviewed several MPD documents, including an "incident based event report," property reports, radio communications, an event chronology, and the roll call and activity logs for the police district where the incident occurred. OPC also canvassed for witnesses at the scene of the incident but found no independent witnesses to the incident.

According to the two officers who were the first to arrive at the scene, they had received a call for service to investigate tampering with a car at a particular address. When the officers arrived at the location, they saw the car and noticed the complainant in the driver's seat. The officers told OPC that the woman moved what appeared to be a rifle from the front seat to the back seat and pointed the rifle toward the officers in the process. One of the subject officers immediately hit the "priority button" on his police radio and both officers moved to the rear of their cruiser to take cover. They acknowledged having removed their service weapons from their holsters, but only after they observed the complainant with the rifle pointed in the officers' direction. Both officers said that they held their guns in a "tuck" position, which involves aiming the weapon at a spot a few feet in front and toward the ground, but they denied pointing their guns at the woman.

As the officers took cover behind their cruiser, the complainant began to drive off, then made a U-turn and drove directly toward the officers. They ordered the woman to stop the car, which she did, and then ordered her to exit the vehicle and get on the ground. Although the complainant seemed confused and asked what was going on, she got out of the

car on her own and lay down on the ground as instructed. One of the officers handcuffed the woman and assisted her to her feet. She remained standing near her vehicle when other officers arrived at the scene in response to the “priority button” alert. The officers denied ever grabbing the woman or throwing her on the ground.

After the complainant was secured, the two officers who arrived first looked in the car and saw the rifle lying in the back seat. Both officers said that the rifle was not encased or covered, contradicting the woman’s account that the rifle was wrapped in a black plastic bag. The officers retrieved the weapon and determined that it was an air rifle. They did not arrest the complainant because they could not determine that she had any criminal intent to use it. However, they confiscated the air rifle as evidence pending further investigation. All of the officers interviewed denied ever telling the woman to “shut up” or making any inappropriate comments regarding the air rifle.

All of the police records, including those not created by the officers who were the subjects of the investigation, were consistent with the two subject officers’ versions of what had occurred. OPC confirmed that the subject officers properly documented the seizure of the air rifle as evidence and that the complainant had unlawfully possessed the air rifle under District law.

Although the complainant alleged that the subject officers used unwarranted force against her, unlawfully searched her car and confiscated her air rifle, and used inappropriate language toward her, OPC found that the evidence did not support her claims. The radio communications and event chronology contradicted the woman’s timeline of events. OPC also found that the complainant lacked credibility due to her exaggeration of certain events that OPC determined was inconsistent with other reliable evidence. In contrast, the subject officers provided consistent explanations for drawing their service weapons, searching the car, and confiscating the air rifle, all of which OPC found to be lawful and within MPD policy. OPC credited the subject officers’ recollections of the incident and, after reviewing the evidence gathered during the investigation, determined there was not reasonable cause to believe the officers had engaged in misconduct, concluding that the complaint should therefore be dismissed. A PCB member reviewed the determination and concurred, resulting in the dismissal of the complaint.

2. Failure to Cooperate by MPD Officers

District law states that MPD officers “shall cooperate fully with the Office in the investigation and adjudication of a complaint. Upon notification by the Executive Director that an MPD employee has not cooperated as requested, the Police Chief shall cause appropriate disciplinary action to be instituted against the employee.”¹⁹ When OPC refers complaints to mediation, officers also must participate in good faith in the mediation process.²⁰ Each time an officer fails to cooperate in the investigation or mediation process, OPC issues a discipline memorandum to MPD or OPS, which should result in the imposition of discipline by the relevant law enforcement agency in accordance with District law. The chart below compares data provided by MPD and OPS for fiscal years 2008 through 2012.

Table 4: Discipline for Failure to Cooperate

	FY08	FY09	FY10	FY11	FY12
Sustained, 10 day suspension	-	-	-	1	-
Sustained, 5 day suspension	-	-	-	1	-
Sustained, 3 day suspension	-	-	-	1	-
Sustained, "Official Reprimand"	3	1	-	3	6
Sustained, "Letter of Prejudice"	4	1	1	10	9
Sustained, "Form 750" or "PD 750"	16	14	17	24	14
Sustained, letter of admonition	-	-	1	2	-
Sustained, "Form 62E"	2	2	-	2	2
Officer Exonerated, no reason provided	17	15	1	-	-
Officer Exonerated, other individual disciplined	1	5	7	1	1
Officer Exonerated, lack of notification	-	11	2	2	4
Officer Exonerated, excused by MPD	-	-	6	4	3
Officer Exonerated, "Article 13 labor agreement"	-	-	-	1	-
Officer Exonerated, No Declination from USAO	-	-	-	-	6
Unfounded	-	4	27	5	12
No action, officer no longer employed	2	-	5	1	-
Not reported or information incomplete	7	5	16	-	-
Withdrawn by OPC	-	1	-	-	-
Pending	-	-	1	-	7
Total OPC Notifications Issued	53	59	84	58	64

OPC records show that in Fiscal Year 2012, the agency sent 63 discipline memoranda to MPD and 1 such memorandum to OPS. The total of 64 disciplinary matters is a 10.39% increase from last year's total of 58 such instances of officers failing to appear or cooperate. While 64 disciplinary memoranda are still substantially lower than the 84 instances two years ago, it is the second highest total in the past five years.

Even more alarming than the total increase is the sharp rise in the number of MPD officers appearing at OPC and refusing to provide or sign statements. Among the 64 disciplinary matters, 24, or 37.5%, are related to an MPD officer refusing to participate in OPC's process as required. In Fiscal Year 2011, there were 13 such instances, and in Fiscal Year 2010, there were only 3.

Several of these situations involving a failure to cooperate stem from an officer refusing to give a statement without a grant of immunity from the United States Attorney's Office. As noted in the table above, these officers are being "exonerated" by MPD. OPC has asked the Department to provide its legal basis for failing to follow District law that clearly requires the imposition of discipline, and MPD has yet to respond either verbally or in writing.

OPC notes that the 700% increase over two years in the number of officers who have refused to cooperate is possibly attributable to MPD's policy of not consistently disciplining officers when OPC determines such officers have not cooperated. The agency is concerned that this lack of cooperation, coupled with disciplinary outcomes exonerating officers under legally unsupported circumstances, left unchecked, will harm the integrity of OPC's

investigative process and undermine public confidence in the District's police accountability system.

While there has also been a substantial increase in the number of "unfounded" disciplinary-related determinations where an officer has failed to appear, OPC reviewed the bases for these determinations and found that they related to officers not receiving the notifications or being excused for emergencies. In two of the unfounded instances, and in one exonerated instance reflected in the chart, an MPD staff person who failed to notify the officer was disciplined by MPD. By doing so, the Department is taking seriously instances of officers failing to appear, which promotes greater confidence in the city's police accountability system.

In Fiscal Year 2011, OPC began sending MPD a running list of outstanding discipline memoranda with the expectation that this increased communication would yield more thorough reporting by the Department, and by extension, more consistent discipline in accordance with District law. OPC is pleased to report that these lists have resulted in there being no requests by OPC that were not reported on by MPD for the second year in a row. By fully reporting on outstanding discipline matters, MPD provides OPC with the information needed to identify trends involving those situations where MPD either fails or refuses to impose discipline on officers.

OPC will continue to monitor instances and patterns concerning the imposition of discipline on officers who fail to cooperate with OPC's processes, and report on the agency's findings.

F. Statistics

OPC collects data in a variety of categories in order to track agency performance and monitor trends in police misconduct. This allows OPC to describe its work, the nature and location of the complaints that the office received, and characteristics of the complainants and subject officers. Some of the information contained in the charts and tables below regarding Fiscal Year 2012 warrants highlighting, including the following:

- OPC worked on 910 complaints in Fiscal Year 2012, the most ever in the agency's history.
- OPC increased the number of complaints it closed in the fiscal year by 2.8% (from 563 to 579) and finished the year with 1.5% fewer open complaints (331 versus 336) than in the previous fiscal year.
- The number of people who filed complaints with OPC increased 3.1% from the prior year (557 to 574), and the total number of people who contacted OPC increased by 3.6% (1,198 to 1,241). The number of complaints is the third highest in the agency's history, and the volume of total contacts registered by OPC is the second highest.
- The agency mediated 35 complaints in Fiscal Year 2012. Of those, participants reached successful resolutions in 26 matters, or 74% of the total complaints mediated. This success rate is 6 percentage points higher than in Fiscal Year 2011.
- Table 8 shows that, as in several previous years, harassment is alleged more frequently than the other five categories. Harassment constituted 47.9% of all allegations in all complaints (733 out of 1530).
- The number of allegations of excessive or unnecessary force decreased from 17.1% to 13.4% of all allegations in all complaints, while the number of complaints where an officer was alleged to have used language or engaged in conduct that was insulting, demeaning, or humiliating increased slightly from 24.6% to 27.4% of all allegations.
- The age and years of service data continue to show that younger and less experienced officers make up a larger proportion of subject officers than their representation in the entire police force. However, unlike in past years when older and more experienced officers made up a smaller proportion, this year's data show that officers over 48 years of age receive nearly an equal percentage of complaints as their proportion of the entire force, and officers who had between 21 and 23 years of service with MPD received a higher percentage of the complaints than their representation in the force.
- Ward 4 experienced the largest decrease in the number of complaints stemming from incidents within its boundaries, falling from 60 to 49, a decrease of

18.3%. Ward 6 experienced the largest increase, from 55 to 87, an increase of 58.2%.

In this section, it should be noted that data regarding complainant and subject officer characteristics generally reflect the information for each complaint, not eliminating duplicates of complainants who filed multiple complaints or officers who were the subject of multiple complaints. In some tables, OPC was able to include information regarding the number of “unique complainants,” meaning that OPC eliminated duplicate complainants. In some tables, OPC was able to include information regarding the number of “unique officers,” meaning that OPC eliminated duplicate officers.

The data used were compiled regardless of whether OPC’s investigation had been completed at the close of the fiscal year. This means that not all complainants had been interviewed nor all officers identified by that time, resulting in a number of entries as “unreported” or “unidentified.” Further, where a formal complaint was received that was outside of OPC’s jurisdiction, or where the complainant either withdrew or failed to pursue the complaint, additional “unreported” or “unidentified” entries occur. In Tables 10, 12, and 16 through 21, the numbers reflect only the percentages of reported complainants and identified officers. OPC attempts to reconcile current data with information from prior years, but cannot in every case, which can lead to certain totals not being consistent from year to year. OPC also attempts to present in this report corrected data for prior years, which can account for adjustments to the charts and tables from what was reported in previous years. Additionally, the agency relies on demographic descriptors of officers based on official MPD roster data or corrected information from the officer, not on how a complainant describes the officer.²¹

For reference purposes, a map indicating the location of the seven police districts used by MPD is included in Appendix B and a map indicating the location of the District of Columbia’s eight wards is included in Appendix C. To help give a better sense of where complaint incidents occurred around the city, both maps also show these incident locations.

1. *Contacts and Complaints Received*

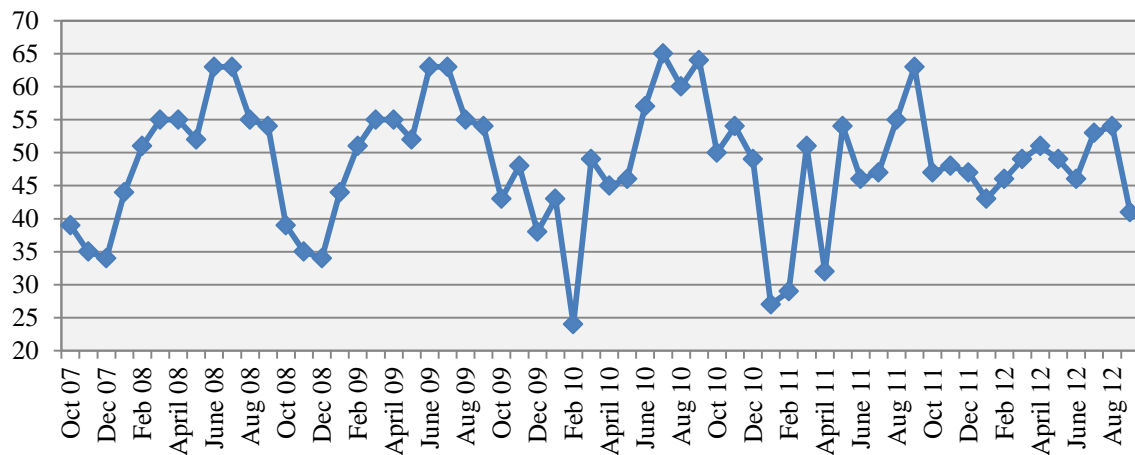
Table 5: Contacts and Complaints Received

	FY08	FY09	FY10	FY11	FY12
Formal Complaints Received	600	550	582	557	574
Contacts Not Resulting in Formal Complaint	716	537	443	641	667
Total Contacts	1,316	1,087	1,025	1,198	1,241

Table 6: Complaints Received per Month

	FY08	FY09	FY10	FY11	FY12
October	39	37	43	50	47
November	35	29	48	54	48
December	34	41	38	49	47
January	44	35	43	27	43
February	51	34	24	29	46
March	55	42	49	51	49
April	55	47	45	32	51
May	52	47	46	54	49
June	63	59	57	46	46
July	63	63	65	47	53
August	55	71	60	55	54
September	54	45	64	63	41

Chart 6: Complaints Received per Month



2. *OPC Workload and Complaint Processing*

Table 7: OPC Workload²²

	FY08	FY09	FY10	FY11	FY12
Total Complaints Already Open at Start of Fiscal Year	187	220	270	342	336
Total New Complaints Received During Fiscal Year	600	550	582	557	574
Total Agency Workload for Fiscal Year	787	770	852	899	910
Referred to MPD or Other Agency for Investigation	136	105	142	143	154
Withdrawn or Administratively Closed	63	61	65	52	63
Complaints Investigated and Resolved During Fiscal Year (Conviction, Adjudication, Dismissal, and Successful Mediation)	368	334	303	368	362
Total Formal Complaints Closed During Fiscal Year	567	500	510	563	579
Total Complaints Remaining Open at End of Fiscal Year	220	270	342	336	331
Net Increase / Decrease in Number of Open Complaints	33	50	72	-6	-5

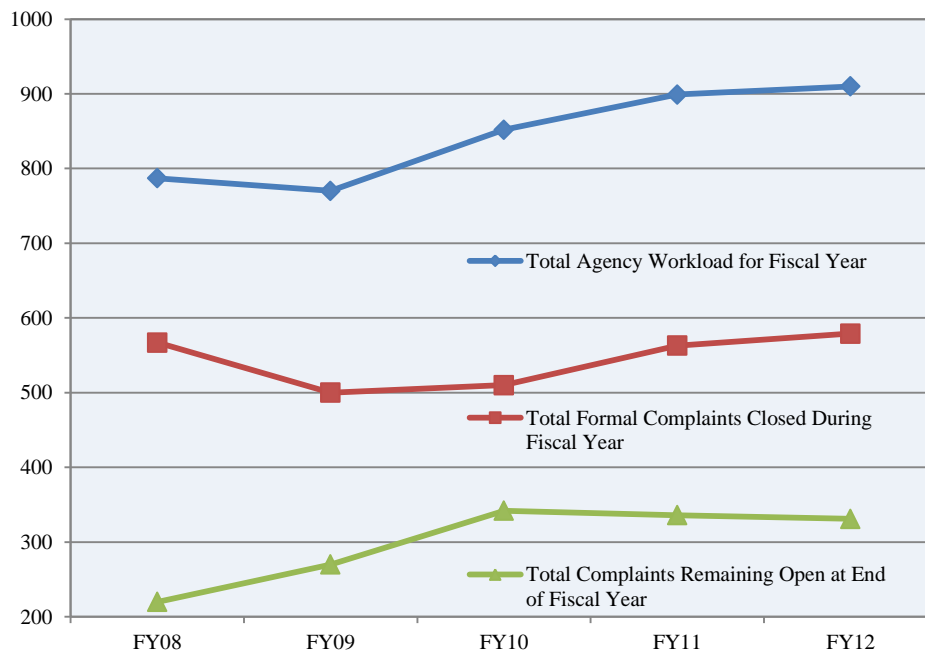
Table 7a: Status of Pending Complaints at the End of Each Fiscal Year

	FY08	FY09	FY10	FY11	FY12
Assigned to Complaint Examiner	1	3	4	6	7
Referred for Mediation	12	10	20	13	8
Referred to U.S. Attorney's Office	33	44	41	13	23
Referred to PCB Member	1	4	29	18	15
Awaiting Subject Officer Objections	1	2	1	4	0
Under Investigation by OPC	150	152	129	197	193
Under Investigation / Report Drafted	22	55	118	83	85
Total Complaints Remaining Open at End of Fiscal Year	220	270	342	334	331

Table 7b: Disposition of Formal Complaints

	FY08	FY09	FY10	FY11	FY12
Criminal Convictions	0	0	0	0	0
Adjudicated	11	5	10	7	14
Dismissed	327	296	264	329	321
Successfully Mediated Complaints	30	33	29	32	26
Withdrawn by Complainant	34	29	33	15	29
Administrative Closures	29	32	32	37	34
Referred to MPD	128	99	123	127	126
Referred to Other Police Agencies	8	6	19	16	28
Conciliated²³	-	-	-	-	1
Total Formal Complaints Closed During Fiscal Year	567	500	510	563	579

Chart 7: OPC Workload



3. *Characteristics of Allegations*

Table 8: Allegations in Complaints by Category

Allegation Category	FY08		FY09		FY10		FY11		FY12	
Force	294	15.6%	351	18.9%	353	19.0%	280	17.1%	206	13.5%
Harassment	861	45.7%	867	46.8%	932	50.2%	799	48.9%	733	47.9%
Discrimination	124	6.6%	126	6.8%	85	4.6%	94	5.7%	92	6.0%
Failure to ID	60	3.2%	65	3.5%	67	3.6%	56	3.4%	65	4.2%
Language or Conduct	539	28.6%	443	23.9%	411	22.2%	402	24.6%	421	27.5%
Retaliation	7	0.4%	2	0.1%	7	0.4%	4	0.2%	13	0.8%
Total Allegations Within OPC Jurisdiction	1885		1854		1855		1635		1530	
Total Complaints	600		550		582		557		574	

Chart 8: Allegations in Complaints by Percentage

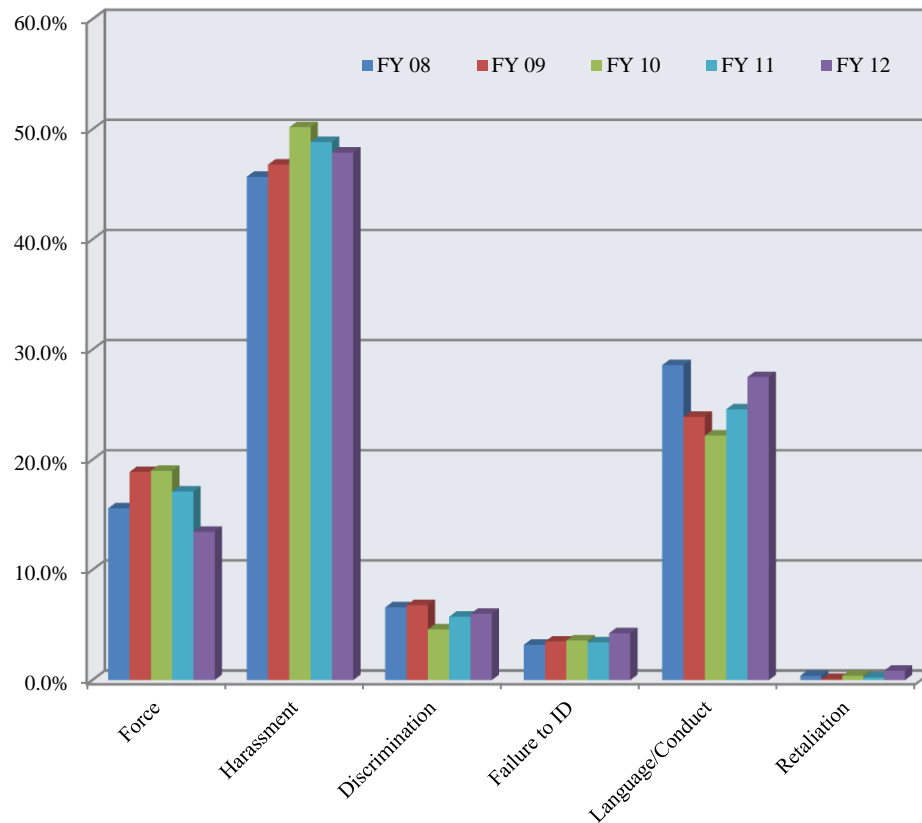


Table 8a: Specific Allegations of Force

Force Subcategories	FY08		FY09		FY10		FY11		FY12	
ASP: all types	7	2.4%	7	2.0%	6	1.7%	2	0.7%	4	1.9%
Canine	1	0.3%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Chokehold	8	2.7%	9	2.6%	7	2.0%	7	2.5%	10	4.9%
Foot on back	1	0.3%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Forceful frisk	1	0.3%	0	0.0%	1	0.3%	0	0.0%	0	0.0%
Forcible handcuffing	10	3.4%	32	9.1%	19	5.4%	20	7.1%	21	10.2%
Gun: drawn, not pointed	6	2.0%	2	0.6%	9	2.5%	7	2.5%	2	1.0%
Gun: fired	0	0.0%	1	0.3%	10	2.8%	1	0.4%	0	0.0%
Gun: pointed at person	47	16.0%	24	6.8%	28	7.9%	13	4.6%	7	3.4%
Handcuffs too tight	22	7.5%	39	11.1%	40	11.3%	33	11.8%	11	5.3%
OC spray	4	1.4%	1	0.3%	9	2.5%	3	1.1%	6	2.9%
Push or pull w/ impact	76	25.9%	93	26.5%	106	30.0%	88	31.4%	68	33.0%
Push or pull w/o impact	56	19.0%	55	15.7%	52	14.7%	50	17.9%	43	20.9%
Kick	4	1.4%	11	3.1%	15	4.2%	9	3.2%	4	1.9%
Strike: with officer's body	9	3.1%	16	4.6%	5	1.4%	7	2.5%	2	1.0%
Strike: punch	28	9.5%	41	11.7%	18	5.1%	9	3.2%	9	4.4%
Strike: while handcuffed	6	2.0%	4	1.1%	3	0.8%	6	2.1%	4	1.9%
Strike: with object	2	0.7%	4	1.1%	8	2.3%	1	0.4%	2	1.0%
Vehicle	1	0.3%	2	0.6%	2	0.6%	0	0.0%	2	1.0%
Other	5	1.7%	10	2.60%	15	3.7%	24	8.6%	11	5.3%
Total Force Allegations	294		351		353		280		206	

Chart 8a: Specific Allegations of Force

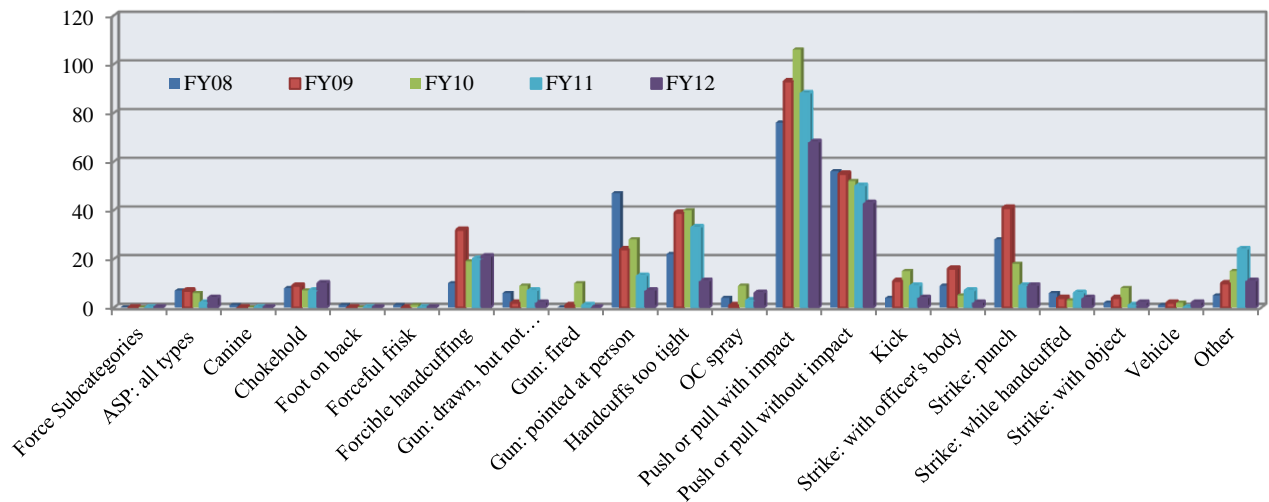


Table 8b: Specific Allegations of Harassment

Harassment Subcategories	FY08		FY09		FY10		FY11		FY12	
Bad ticket	85	9.9%	100	11.5%	84	9.0%	96	12.0%	99	13.5%
Contact	19	2.2%	37	4.3%	52	5.6%	62	7.8%	67	9.1%
Entry (no search)	14	1.6%	35	4.0%	19	2.0%	21	2.6%	10	1.4%
Frisk	27	3.1%	1	0.1%	10	1.1%	8	1.0%	4	0.5%
Gun: touch holstered weapon	7	0.8%	4	0.5%	12	1.3%	1	0.1%	8	1.1%
Intimidation	83	9.6%	23	2.7%	42	4.5%	19	2.4%	40	5.5%
Mishandling property	15	1.7%	47	5.4%	63	6.8%	50	6.3%	52	7.1%
Move along order	21	2.4%	19	2.2%	10	1.1%	6	0.8%	17	2.3%
Prolonged detention	25	2.9%	18	2.1%	37	4.0%	15	1.9%	9	1.2%
Property damage	25	2.9%	12	1.4%	10	1.1%	10	1.3%	12	1.6%
Refusing medical treatment	3	0.3%	16	1.8%	4	0.4%	3	0.4%	5	0.7%
Search: belongings	10	1.2%	6	0.7%	10	1.1%	9	1.1%	7	1.0%
Search: car	37	4.3%	44	5.1%	42	4.5%	39	4.9%	20	2.7%
Search: home	48	5.6%	36	4.2%	38	4.1%	22	2.8%	17	2.3%
Search: person	30	3.5%	18	2.1%	47	5.0%	27	3.4%	18	2.5%
Search: strip (invasive)	3	0.3%	5	0.6%	10	1.1%	13	1.6%	5	0.7%
Stop: bicycle	2	0.2%	0	0.0%	8	0.9%	1	0.1%	1	0.1%
Stop: pedestrian	54	6.3%	56	6.5%	53	5.7%	39	4.9%	37	5.0%
Stop: vehicle/traffic	68	7.9%	89	10.3%	95	10.2%	78	9.8%	76	10.4%
Threat	87	10.1%	87	10.0%	100	10.7%	84	10.5%	110	15.0%
Unlawful arrest	138	16.0%	158	18.2%	157	16.8%	133	16.6%	84	11.5%
Other	65	7.5%	56	6.5%	29	3.1%	63	7.9%	35	4.8%
Total Harassment Allegations	861		867		932		799		733	

Chart 8b: Specific Allegations of Harassment

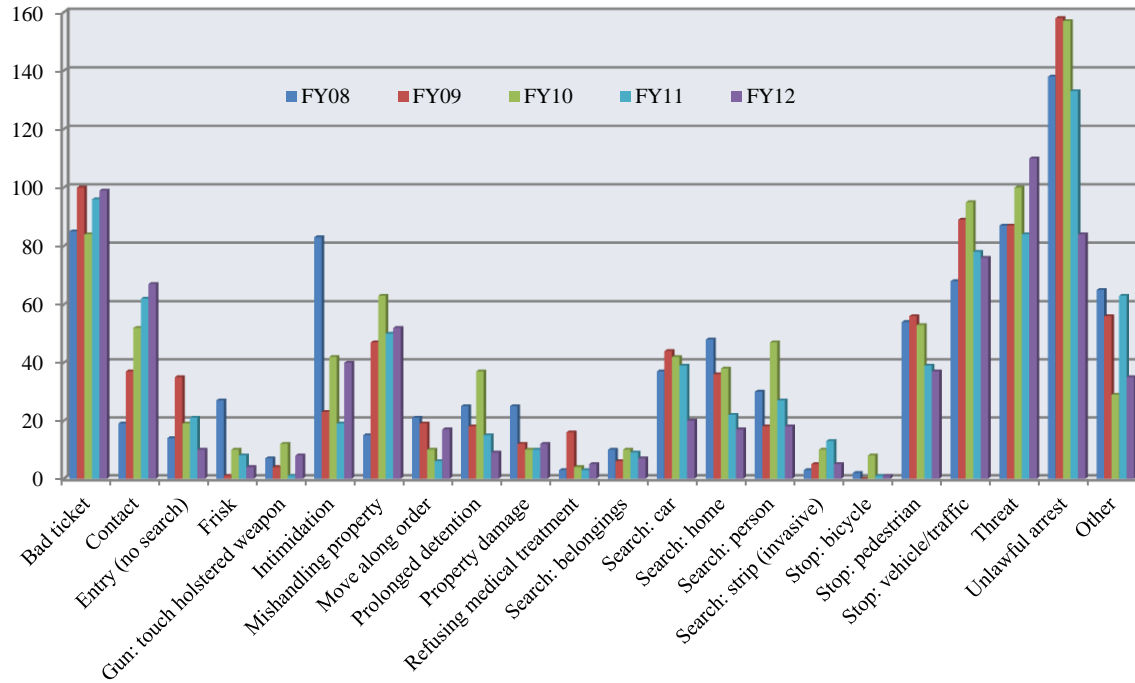


Table 8c: Specific Allegations of Discrimination

Discrimination Subcategories	FY08		FY09		FY10		FY11		FY12	
Age	6	4.8%	10	7.9%	3	3.8%	1	1.1%	3	3.3%
Color	1	0.8%	3	2.4%	2	2.5%	2	2.1%	1	1.1%
Disability	2	1.6%	1	0.8%	0	0.0%	3	3.2%	2	2.2%
Language	0	0.0%	0	0.0%	1	1.3%	0	0.0%	0	0.0%
National Origin	4	3.2%	12	9.5%	7	8.8%	5	5.3%	7	7.6%
Personal Appearance	5	4.0%	11	8.7%	13	16.3%	1	1.1%	6	6.5%
Physical Handicap	0	0.0%	3	2.4%	0	0.0%	0	0.0%	0	0.0%
Place of Residence or Business	11	8.9%	4	3.2%	4	5.0%	0	0.0%	5	5.4%
Political Affiliation	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	1.1%
Race	70	56.5%	54	42.9%	42	52.5%	64	68.1%	47	51.1%
Religion	3	2.4%	6	4.8%	0	0.0%	1	1.1%	2	2.2%
Sex	7	5.6%	8	6.3%	3	3.8%	3	3.2%	1	1.1%
Sexual Orientation	7	5.6%	5	4.0%	2	2.5%	5	5.3%	2	2.2%
Source of Income	8	6.5%	9	7.1%	3	3.8%	2	2.1%	1	1.1%
Other	0	0.0%	0	0.0%	5	6.3%	7	7.4%	14	15.2%
Total Discrimination Allegations	124		126		80		94		92	

Chart 8c: Specific Allegations of Discrimination

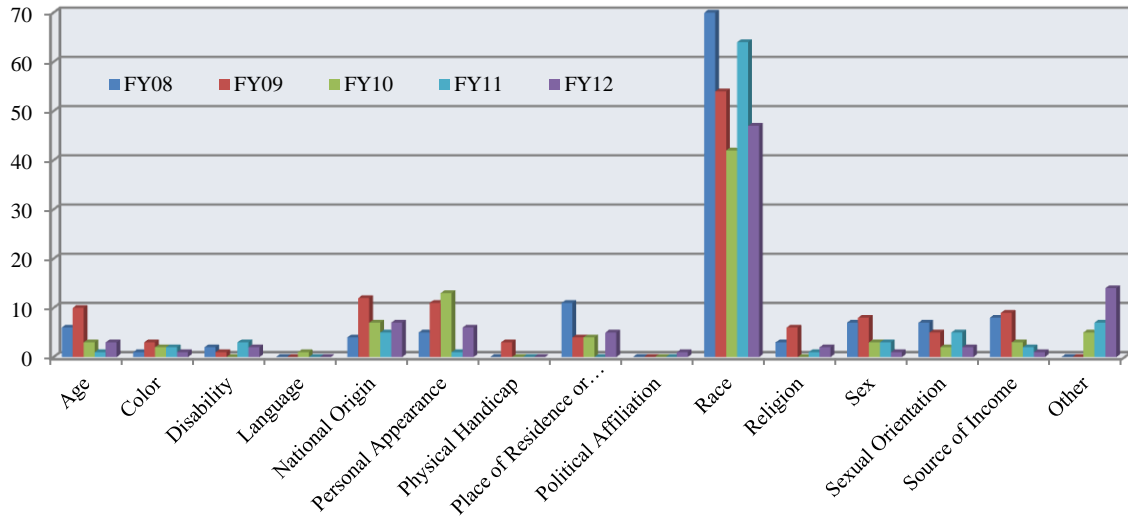


Table 8d: Specific Allegations of Failure to Identify

Failure to Identify Subcategories	FY08		FY09		FY10		FY11		FY12	
Display name and badge	9	15.0%	17	26.2%	4	6.0%	4	7.1%	14	21.2%
Provide name and badge	48	80.0%	48	73.8%	63	94.0%	50	89.3%	50	77.3%
Other	3	5.0%	0	0.0%	0	0.0%	2	3.6%	1	1.5%
Total Allegations	60		65		67		56		65	

Chart 8d: Specific Allegations of Failure to Identify

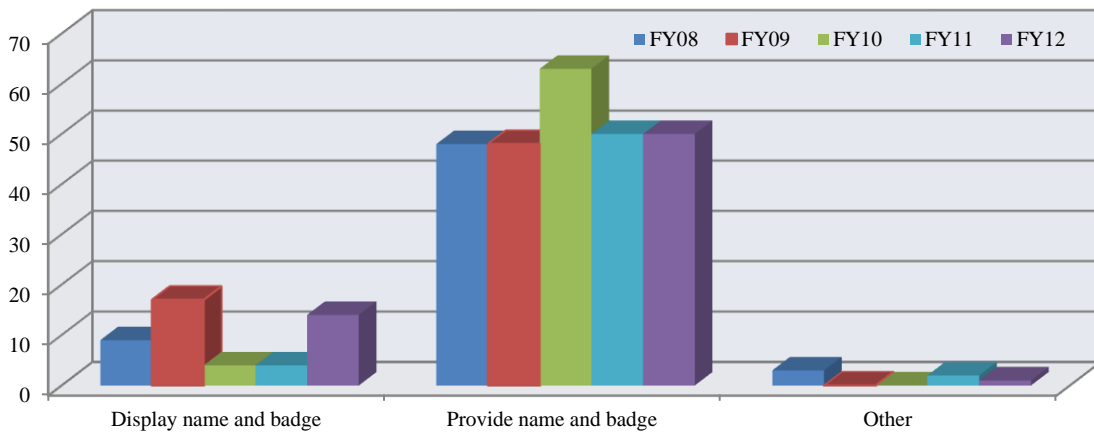


Table 8e: Specific Allegations of Language and Conduct

Language and Conduct Subcategories	FY08		FY09		FY10		FY11		FY12	
Demeanor or tone	263	48.8%	198	44.7%	198	48.2%	203	50.5%	198	47.1%
Gesture or action	64	11.9%	38	8.6%	19	4.6%	36	9.0%	54	12.7%
Profanity	93	17.3%	96	21.7%	94	22.9%	77	19.2%	67	16.0%
Racial/Ethnic slur	21	3.9%	15	3.4%	9	2.2%	7	1.7%	13	3.1%
Other language	89	16.5%	70	15.8%	74	18.0%	62	15.4%	52	12.4%
Other	9	1.7%	26	5.9%	17	4.1%	17	4.2%	37	8.6%
Total Language and Conduct Allegations	539		443		411		402		421	

Chart 8e: Specific Allegations of Language and Conduct

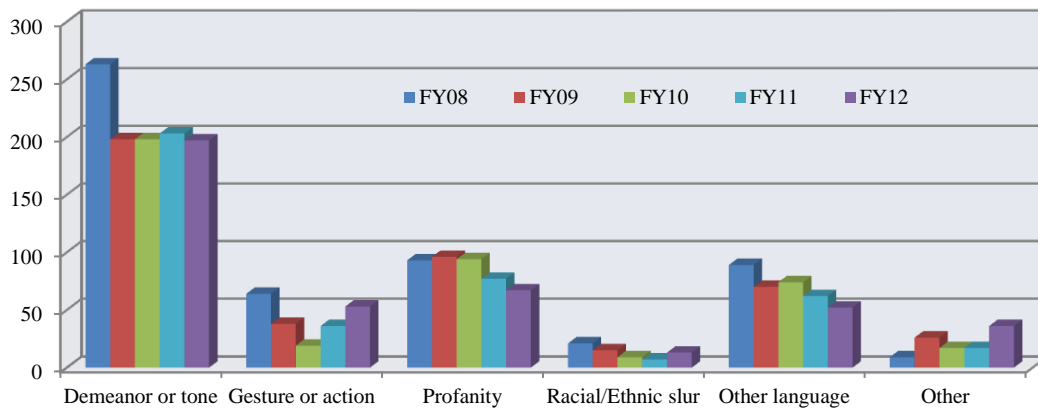


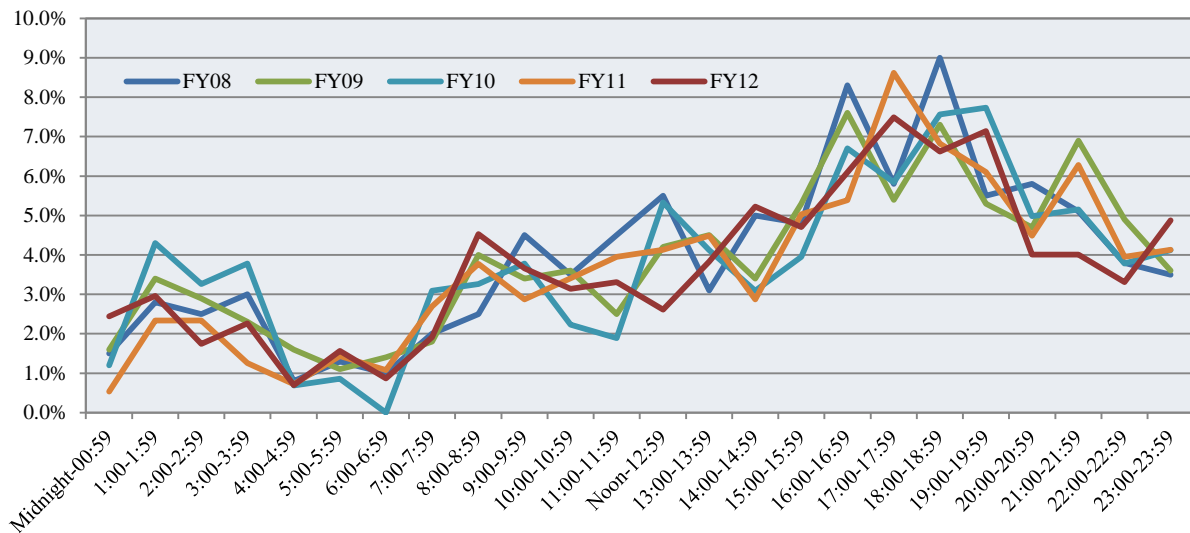
Table 8f: Specific Allegations of Retaliation

Retaliation	FY08	FY09	FY10	FY11	FY12
Total	7	2	7	4	13

Table 9: Time of Incidents Leading to Complaints

	FY08		FY09		FY10		FY11		FY12	
Midnight-00:59	9	1.5%	9	1.6%	7	1.2%	3	0.5%	14	2.4%
1:00-1:59	17	2.8%	19	3.4%	25	4.3%	13	2.3%	17	3.0%
2:00-2:59	15	2.5%	16	2.9%	19	3.3%	13	2.3%	10	1.7%
3:00-3:59	18	3.0%	13	2.3%	22	3.8%	7	1.3%	13	2.3%
4:00-4:59	5	0.8%	9	1.6%	4	0.7%	4	0.7%	4	0.7%
5:00-5:59	8	1.3%	6	1.1%	5	0.9%	8	1.4%	9	1.6%
6:00-6:59	6	1.0%	8	1.4%	0	0.0%	6	1.1%	5	0.9%
7:00-7:59	12	2.0%	10	1.8%	18	3.1%	15	2.7%	11	1.9%
8:00-8:59	15	2.5%	22	4.0%	19	3.3%	21	3.8%	26	4.5%
9:00-9:59	27	4.5%	19	3.4%	22	3.8%	16	2.9%	21	3.7%
10:00-10:59	21	3.5%	20	3.6%	13	2.2%	19	3.4%	18	3.1%
11:00-11:59	27	4.5%	14	2.5%	11	1.9%	22	3.9%	19	3.3%
Noon-12:59	33	5.5%	23	4.2%	31	5.3%	23	4.1%	15	2.6%
13:00-13:59	19	3.1%	25	4.5%	24	4.1%	25	4.5%	22	3.8%
14:00-14:59	30	5.0%	19	3.4%	18	3.1%	16	2.9%	30	5.2%
15:00-15:59	29	4.8%	29	5.3%	23	4.0%	28	5.0%	27	4.7%
16:00-16:59	50	8.3%	42	7.6%	39	6.7%	30	5.4%	35	6.1%
17:00-17:59	35	5.8%	30	5.4%	34	5.8%	48	8.6%	43	7.5%
18:00-18:59	54	9.0%	40	7.3%	44	7.6%	38	6.8%	38	6.6%
19:00-19:59	33	5.5%	29	5.3%	45	7.7%	34	6.1%	41	7.1%
20:00-20:59	35	5.8%	26	4.7%	29	5.0%	25	4.5%	23	4.0%
21:00-21:59	31	5.1%	38	6.9%	30	5.2%	35	6.3%	23	4.0%
22:00-22:59	23	3.8%	27	4.9%	22	3.8%	22	3.9%	19	3.3%
23:00-23:59	21	3.5%	20	3.6%	24	4.1%	23	4.1%	28	4.9%
Unknown	27	4.5%	37	6.7%	54	9.3%	63	11.3%	63	11.0%
Total	600		550		582		557		574	

Chart 9: Time of Incidents Leading to Complaints (as a Percentage)



4. *Complainant Characteristics*²⁴

Table 10: Complainant Race or National Origin

	FY08		FY09		FY10		FY11		FY12		District Pop.
African-American	443	80.4%	392	80.2%	421	78.7%	399	76.9%	381	75.9%	50.7%
White	75	13.6%	49	10.0%	71	13.3%	80	15.4%	79	15.7%	42.4%
Latino	19	3.4%	24	4.9%	21	3.9%	26	5.0%	13	2.6%	9.5%
Asian	7	1.3%	9	1.8%	11	2.1%	3	0.6%	12	2.4%	3.7%
Middle Eastern	4	0.7%	9	1.8%	2	0.4%	4	0.8%	0	0.0%	N/A
Native American	1	0.2%	0	0.0%	0	0.0%	2	0.4%	1	0.2%	0.6%
Multiracial / Other	2	0.4%	6	1.2%	9	1.7%	7	1.3%	16	3.2%	2.5%
Unreported	49		60		47		36		72		
Total	600		550		582		557		574		

Chart 10: Complainant Race or National Origin (as a Percentage)

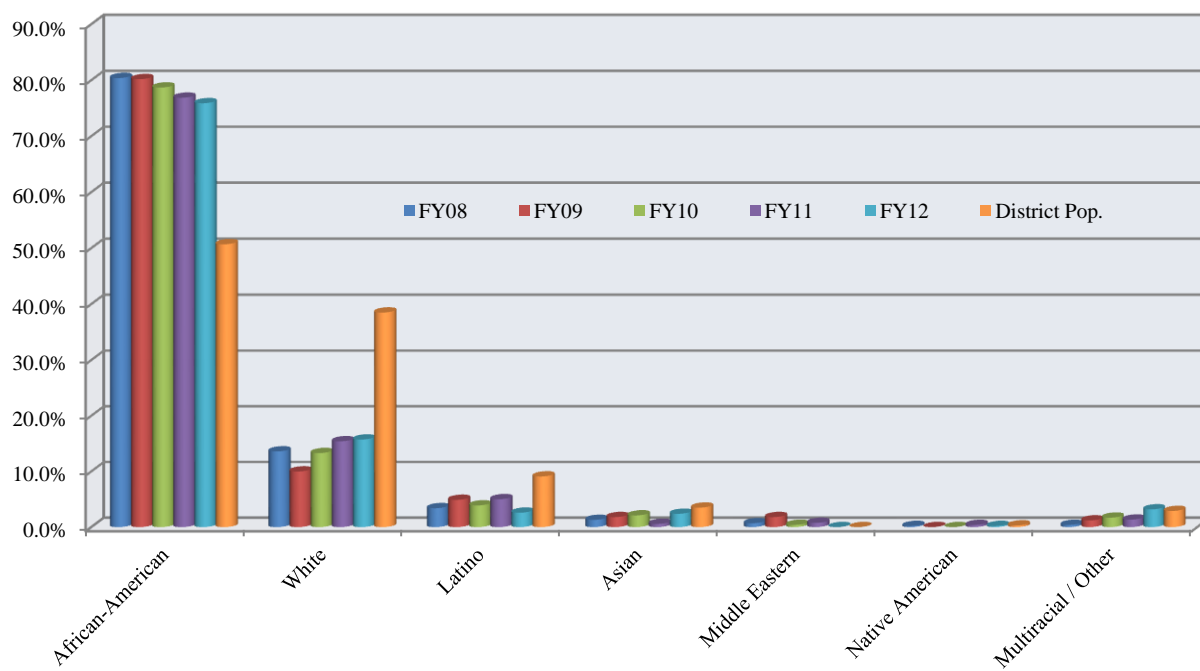


Table 11: Complainant Gender

	FY08		FY09		FY10		FY11		FY12		District Pop.
Male	277	46.2%	293	53.3%	303	52.1%	293	52.6%	315	54.9%	47.3%
Female	323	53.8%	257	46.7%	279	47.9%	264	47.4%	259	45.1%	52.7%
Total	600		550		582		557		574		

Chart 11: Complainant Gender (as a Percentage)

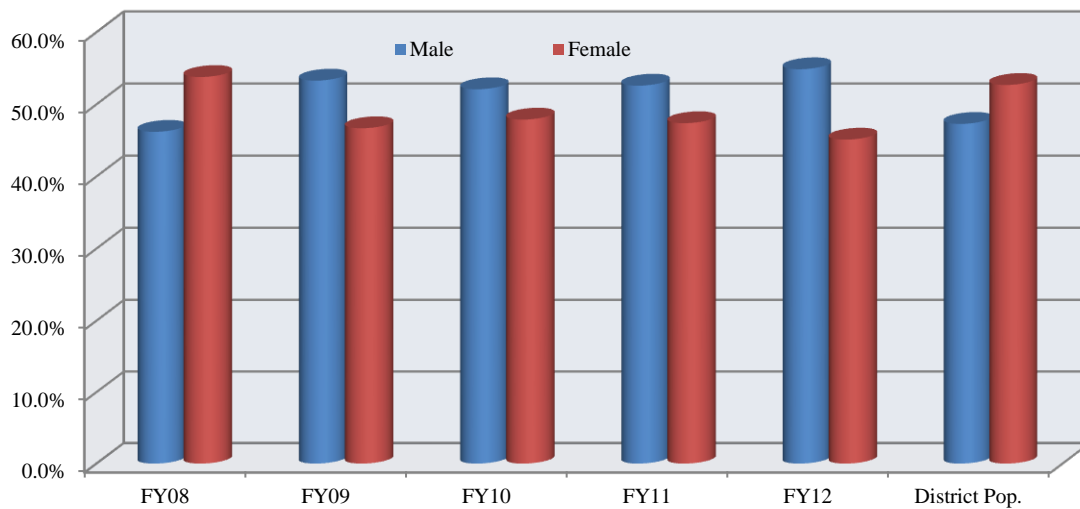


Table 12: Complainant Age

	FY08		FY09		FY10		FY11		FY12		District Pop.
Under 15	1	0.2%	1	0.2%	--	0.0%	1	0.2%	1	0.2%	20.2%
15-24	46	10.5%	60	10.4%	52	10.4%	44	8.1%	34	6.3%	13.8%
25-34	113	25.7%	154	26.7%	129	25.7%	151	27.8%	138	25.7%	13.6%
35-44	101	23.0%	138	24.0%	124	24.7%	131	24.1%	122	22.7%	13.0%
45-54	99	22.5%	146	25.3%	126	25.1%	126	23.2%	151	28.1%	14.4%
55-64	54	12.3%	57	9.9%	51	10.2%	67	12.3%	63	11.7%	12.1%
65 +	14	3.2%	20	3.5%	20	4.0%	24	4.4%	29	5.4%	12.8%
Unreported	12		24		48		38		36		
Total	440		600		550		582		574		

Chart 12: Complainant Age (as a Percentage)

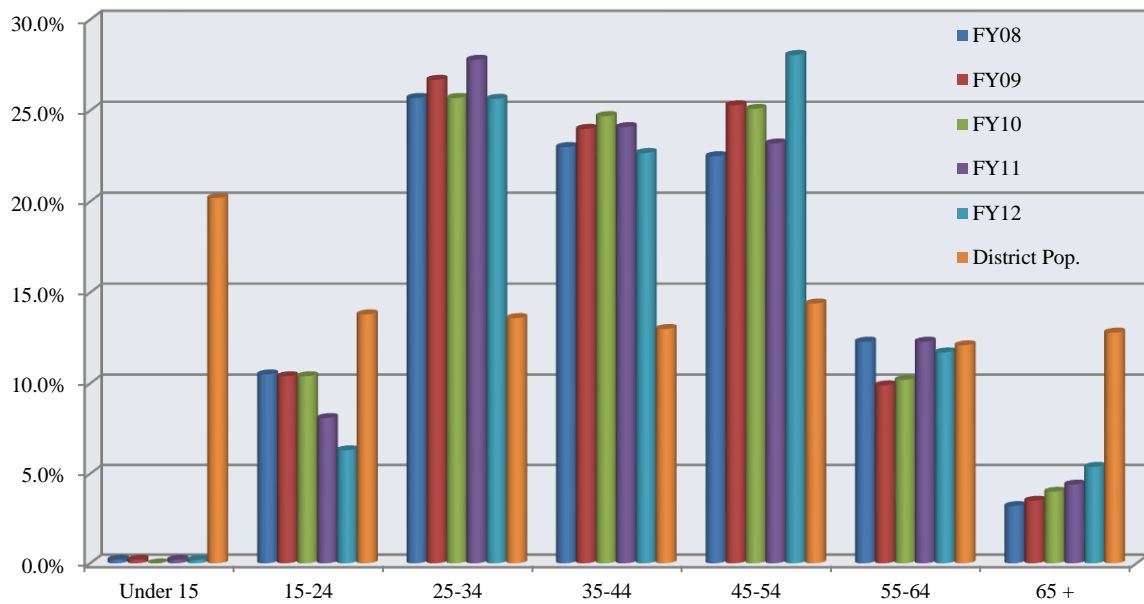


Table 13: Number of Complainants Who Filed Multiple Complaints

	FY08	FY09	FY10	FY11	FY12
2 Complaints	17	12	21	28	18
3 Complaints	1	3	4	2	3
4 Complaints	--	1	1	--	1
5 Complaints	1	--	2	2	--
6-10 Complaints	--	1	--	1	4
11+ Complaints	1	--	--	--	1

Table 14: Complainant Race or National Origin with “Unique Complainant” Information

	FY08	FY08 Unique Comp.	FY09	FY09 Unique Comp.	FY10	FY10 Unique Comp.	FY11	FY11 Unique Comp.	FY12	FY12 Unique Comp.
African-American	443	401	393	374	421	387	399	372	381	329
White	75	75	49	49	71	70	80	67	79	68
Latino	19	18	24	24	21	21	26	24	13	11
Asian	7	7	9	9	11	10	3	3	12	12
Middle Eastern	4	4	9	9	2	2	4	4	0	0
Native American	1	1	0	0	0	0	2	2	1	1
Multiracial / Other	2	2	6	4	9	8	7	6	16	15
Unreported	49	49	60	60	47	46	36	34	72	64
Total	600	557	550	529	582	544	557	512	574	500

Table 15: Complainant Gender with “Unique Complainant” Information

	FY08	FY08 Unique Comp.	FY09	FY09 Unique Comp.	FY10	FY10 Unique Comp.	FY11	FY11 Unique Comp.	FY12	FY12 Unique Comp.
Male	277	288	297	286	303	274	293	270	315	272
Female	323	269	263	248	279	270	264	242	259	228
Total	600	557	560	534	582	544	557	512	574	500

5. *Subject Officer Characteristics*²⁵

Table 16: Subject Officer Race or National Origin

	FY08		FY09		FY10		FY11		FY12		Entire MPD Force
African American	350	53.6%	453	52.1%	293	46.0%	290	46.2%	298	46.4%	59.8%
White	234	35.8%	332	38.2%	275	43.2%	264	42.0%	288	44.9%	30.2%
Latino	45	6.9%	60	6.9%	48	7.5%	52	8.3%	33	5.1%	7.0%
Asian	23	3.5%	22	2.5%	21	3.3%	20	3.2%	17	2.6%	2.0%
Other	1	0.2%	2	0.2%	0	0.0%	2	0.3%	6	0.9%	1.0%
Unidentified	206		211		225		185		242		
Total	859		1080		862		813		884		

Chart 16: Subject Officer Race or National Origin (as a Percentage)

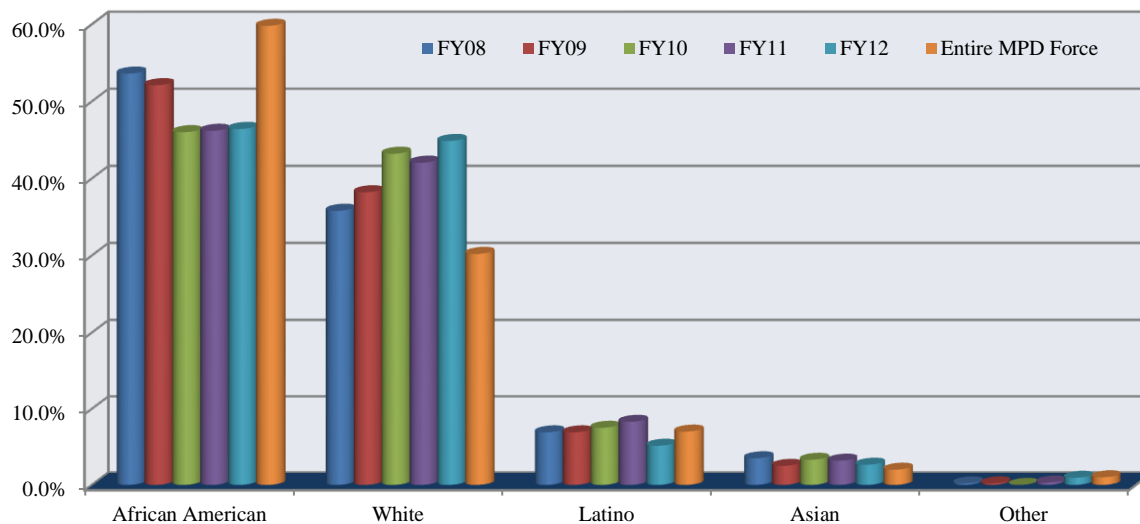


Table 17: Subject Officer Gender

	FY08		FY09		FY10		FY11		FY12		Entire MPD Force
Male	564	85.7%	770	87.1%	552	86.6%	555	86.7%	565	85.2%	76.7%
Female	94	14.3%	114	12.9%	85	13.4%	85	13.3%	98	14.8%	23.3%
Unidentified	201		196		225		173		221		
Total	859		1080		862		813		884		

Chart 17: Subject Officer Gender (as a Percentage)

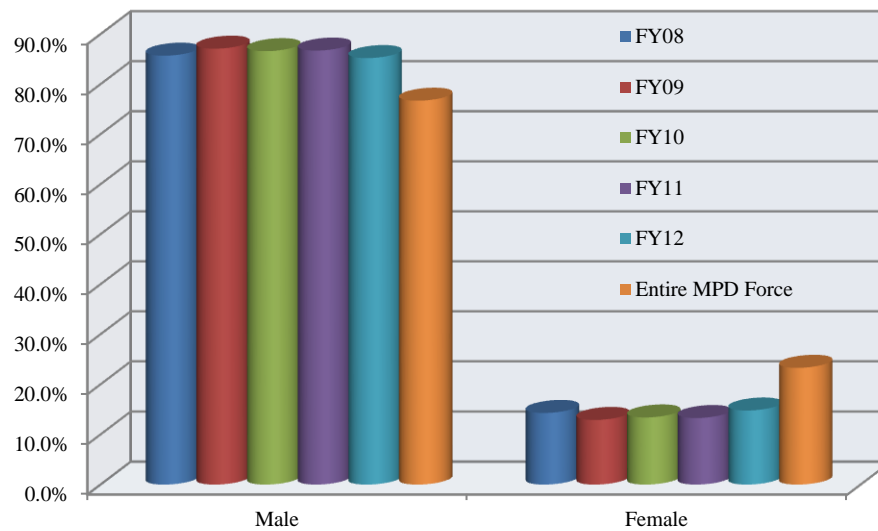


Table 18: Subject Officer Assignment²⁶

	FY08		FY09		FY10		FY11		FY12	
First District (1D)	100	15.2%	142	16.3%	88	13.8%	70	11.4%	66	10.0%
Second District (2D)	68	10.3%	76	8.7%	50	7.8%	48	7.8%	64	9.7%
Third District (3D)	92	14.0%	98	11.3%	134	21.0%	102	16.6%	86	13.0%
Fourth District (4D)	58	8.8%	77	8.9%	76	11.9%	69	11.2%	70	10.6%
Fifth District (5D)	53	8.1%	72	8.3%	51	8.0%	70	11.4%	63	9.5%
Sixth District (6D)	97	14.7%	189	21.7%	112	17.6%	135	21.9%	165	25.0%
Seventh District (7D)	111	16.9%	129	14.8%	78	12.2%	67	10.9%	78	11.8%
Other	64	9.7%	73	8.4%	45	7.1%	47	7.6%	58	8.8%
DCHA	15	2.3%	13	1.5%	3	0.5%	8	1.3%	11	1.7%
Unidentified	201		211		225		197		223	
Total	859		1080		862		813		884	

Chart 18: Subject Officer Assignment (as a Percentage)

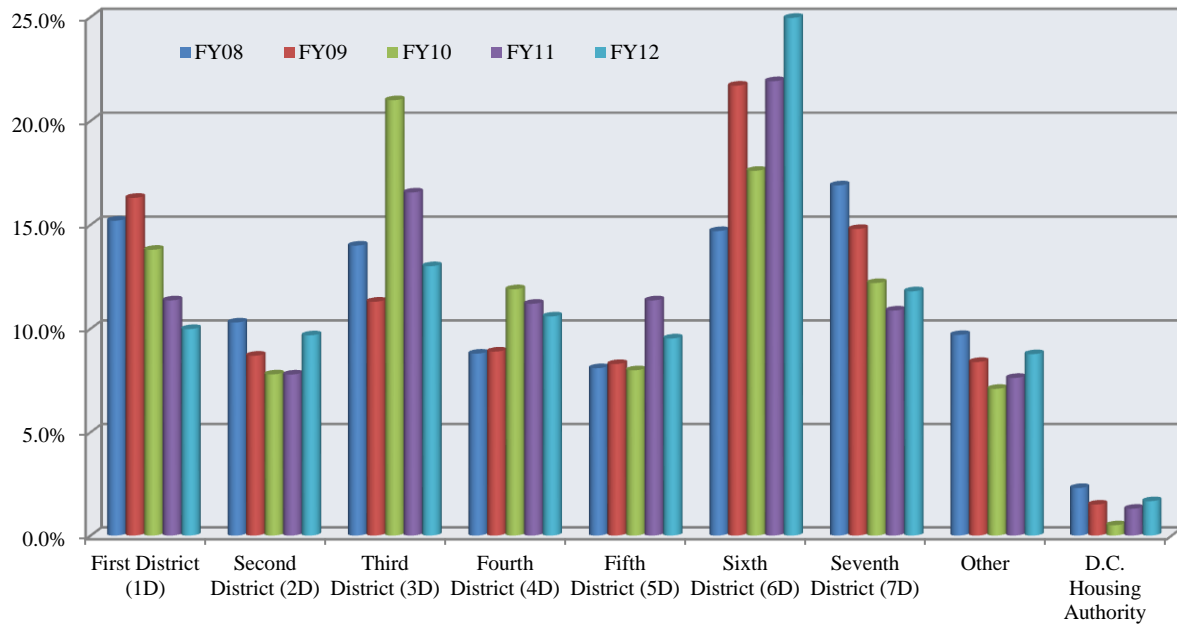


Table 19: Subject Officer Age

	FY08		FY09		FY10		FY11		FY12		Entire MPD Force	
≤ 23	11	1.7%	2	0.2%	5	0.9%	9	1.4%	1	0.2%	35	0.9%
24-26	66	10.1%	74	8.6%	43	7.4%	51	8.1%	24	3.7%	205	5.2%
27-29	93	14.2%	114	13.2%	77	13.3%	92	14.6%	87	13.4%	349	8.8%
30-32	76	11.6%	107	12.4%	96	16.6%	99	15.7%	95	14.6%	283	7.1%
33-35	73	11.2%	101	11.7%	58	10.0%	61	9.7%	84	12.9%	297	7.5%
36-38	82	12.6%	102	11.8%	62	10.7%	51	8.1%	52	8.0%	341	8.6%
39-41	85	13.0%	97	11.3%	64	11.1%	54	8.5%	59	9.1%	492	12.4%
42-44	65	10.0%	91	10.6%	54	9.3%	78	12.3%	73	11.2%	613	15.5%
45-47	45	6.9%	73	8.5%	52	9.0%	75	11.9%	59	9.1%	575	14.5%
48-50	38	5.8%	60	7.0%	31	5.4%	33	5.2%	67	10.3%	438	11.0%
51-53	17	2.6%	27	3.1%	28	4.8%	21	3.3%	31	4.8%	205	5.2%
Over 53	2	0.3%	14	1.6%	9	1.6%	8	1.3%	18	2.8%	131	3.3%
Unknown	206		218		283		181		234			
Total	859		1080		862		813		884		3964	

Chart 19: Subject Officer Age (as a Percentage)

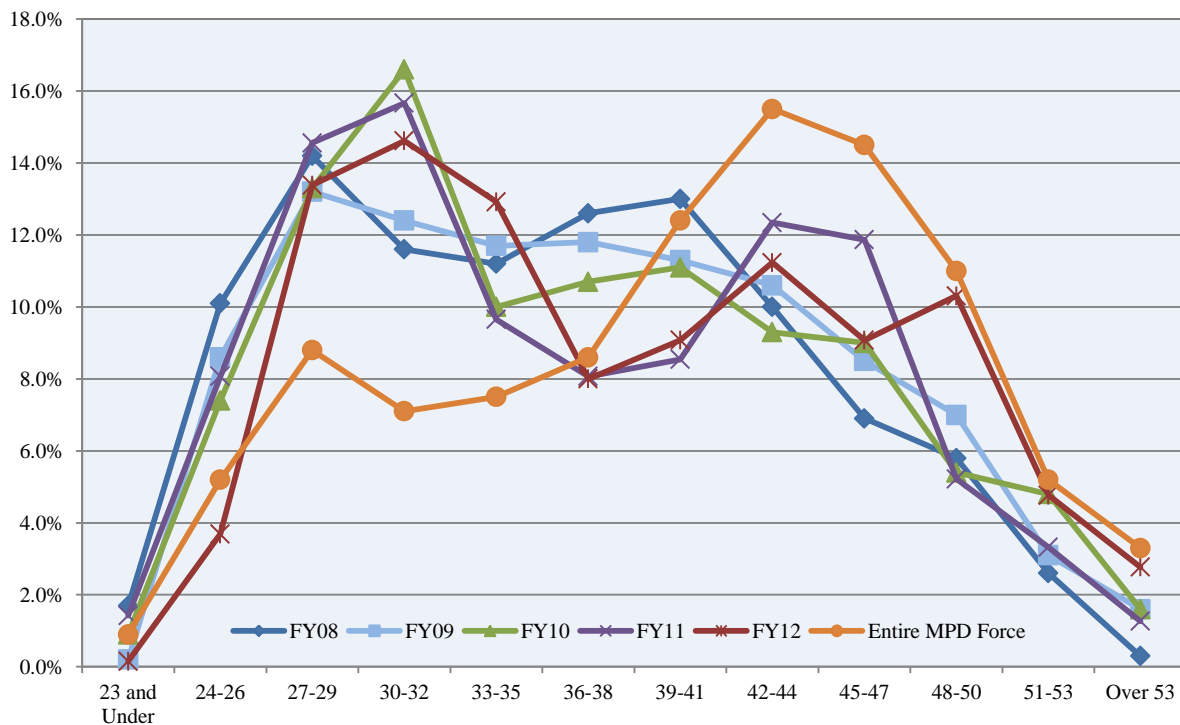


Table 20: Subject Officer Years of Service

	FY08		FY09		FY10		FY11		FY12		Entire MPD Force	
< 3	84	12.8%	71	8.4%	85	13.4%	97	15.3%	29	4.4%	422	10.6%
3-5	151	23.1%	245	29.1%	163	25.6%	179	28.1%	169	25.8%	516	13.0%
6-8	136	20.8%	149	17.7%	140	22.0%	92	14.5%	119	18.2%	442	11.2%
9-11	58	8.9%	101	12.0%	68	10.7%	77	12.1%	80	12.2%	381	9.6%
12-14	41	6.3%	32	3.8%	32	5.0%	25	3.9%	64	9.8%	231	5.8%
15-17	83	12.7%	52	6.2%	20	3.1%	17	2.7%	25	3.8%	215	5.4%
18-20	57	8.7%	98	11.6%	64	10.1%	52	8.2%	26	4.0%	797	20.1%
21-23	29	4.4%	52	6.2%	35	5.5%	59	9.3%	98	15.0%	546	13.8%
24-26	15	2.3%	27	3.2%	18	2.8%	29	4.6%	25	3.8%	227	5.7%
27<	1	0.2%	15	1.8%	11	1.7%	9	1.4%	19	2.9%	187	4.7%
Unknown	204		238		226		177		230			
Total	859		1080		862		813		884		3964	

Chart 20: Subject Officer Years of Service (as a Percentage)

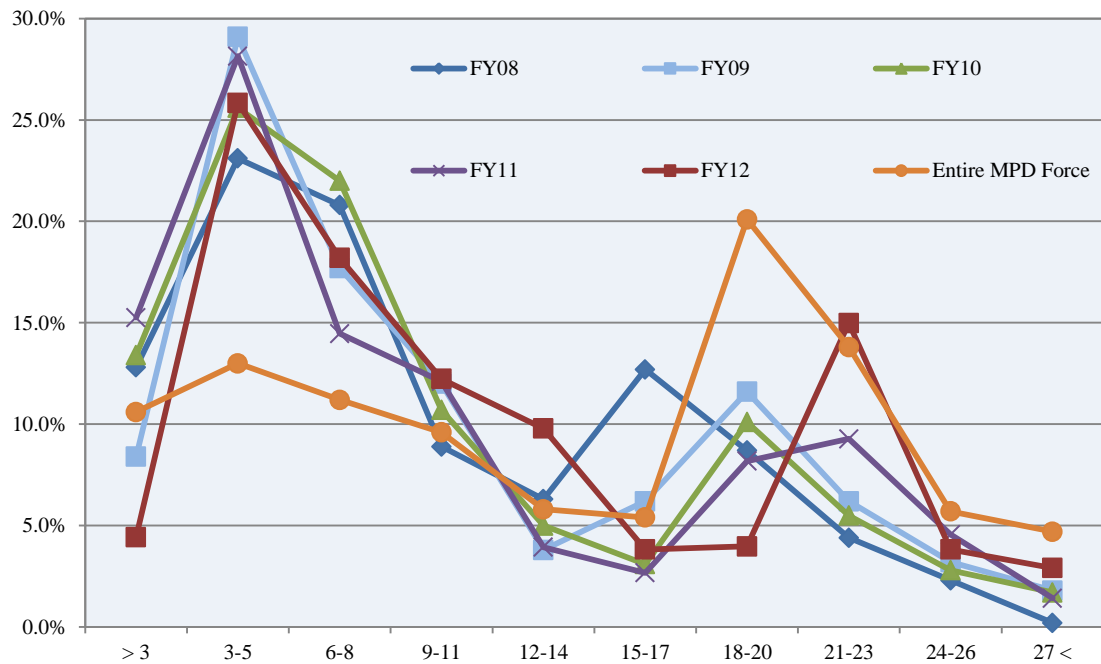


Table 21: Subject Officer Rank

	FY08		FY09		FY10		FY11		FY12		Entire MPD Force	
Chief	--		--		--	--	--	--	2	0.3%	1	0.0%
Assistant Chief	1	0.2%	1	0.1%	1	0.2%	1	0.2%	1	0.2%	7	0.2%
Commander	1	0.2%	--	--	--	--	1	0.2%	1	0.2%	13	0.3%
Inspector	--	--	--	--	--	--	2	0.3%	-	-	10	0.3%
Captain	--	--	3	0.3%	1	0.2%	3	0.5%	1	0.2%	42	1.1%
Lieutenant	10	1.5%	15	1.7%	9	1.4%	7	1.1%	9	1.4%	135	3.5%
Sergeant	66	10.1%	83	9.4%	36	5.7%	36	5.6%	53	8.0%	429	11.2%
Detective	37	5.6%	19	2.1%	15	2.3%	24	3.8%	38	5.7%	371	9.7%
Investigator	--	--	7	0.8%	1	0.2%	1	0.2%	1	0.2%	2	0.1%
Master Patrol Officer (MPO)	26	4.0%	33	3.7%	25	3.9%	21	3.3%	26	3.9%	76	2.0%
Officer	514	78.5%	723	81.8%	548	86.2%	544	85.0%	531	80.1%	2730	71.5%
Unidentified	204		196		226		173		221			
Total	859		1080		862		813		884		3816	

Table 22: Number of Officers Who Were the Subject of Multiple Complaints

	FY08	FY09	FY10	FY11	FY12
2 Complaints	56	111	78	75	87
3 Complaints	21	29	18	18	13
4 Complaints	7	17	8	10	1
5 Complaints	4	2	4	4	5
6 Complaints	2	--	--	1	1
8 Complaints	--	--	1	--	--
9 Complaints	--	1	1	--	--
10 Complaints	--	--	1	--	--

Table 23: Subject Officer Race or National Origin with “Unique Officer” Information

	FY08	FY08 Unique Officers	FY09	FY09 Unique Officers	FY10	FY10 Unique Officers	FY11	FY11 Unique Officers	FY12	FY12 Unique Officers
African American	350	272	458	333	293	228	290	228	298	245
White	234	174	333	227	275	180	264	180	288	215
Latino	45	35	60	47	48	32	52	28	33	26
Asian	23	13	22	15	21	17	20	14	17	15
Other	1	1	2	1	0	0	2	1	6	4
Unidentified	206	206	205	205	225	225	185	185	242	236
Total	859	701	1080	828	862	682	813	636	884	741

Table 24: Subject Officer Gender with “Unique Officer” Information

	FY08	FY08 Unique Officers	FY09	FY09 Unique Officers	FY10	FY10 Unique Officers	FY11	FY11 Unique Officers	FY12	FY12 Unique Officers
Male	564	416	770	548	552	394	555	396	565	438
Female	94	84	114	94	85	63	85	67	98	82
Unidentified	201	201	196	196	225	225	173	173	221	221
Total	859	701	1080	838	862	682	813	636	884	741

Table 25: Subject Officer Assignment with “Unique Officer” Information

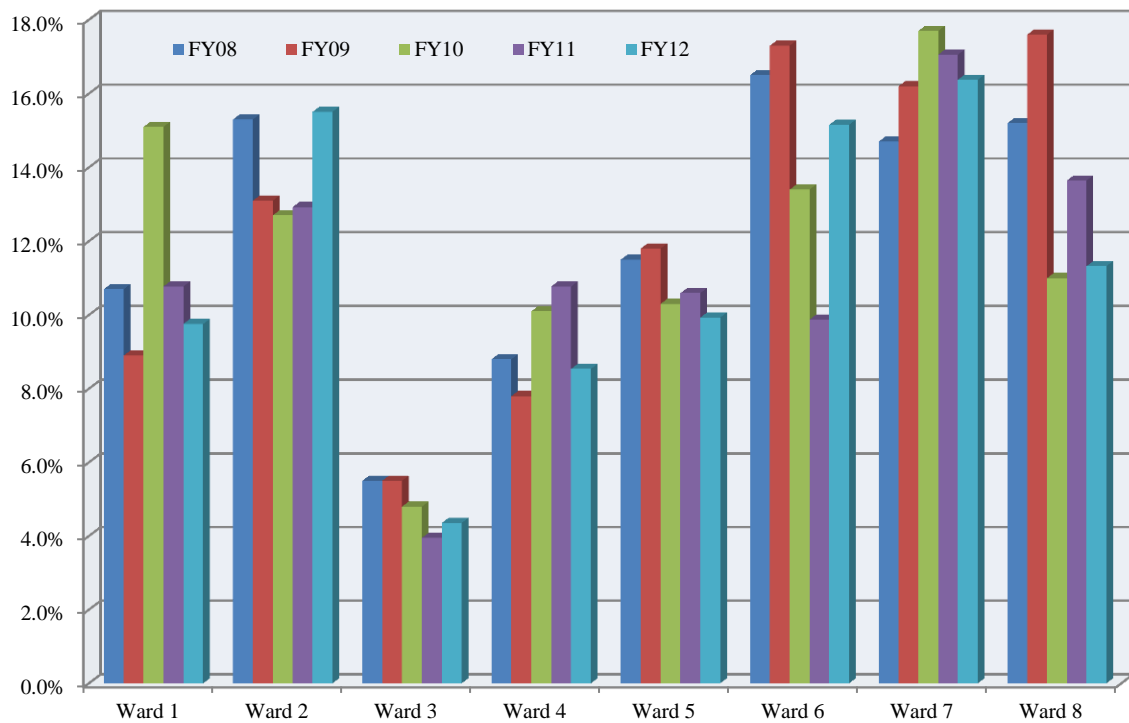
	FY08	FY08 Unique Officers	FY09	FY09 Unique Officers	FY10	FY10 Unique Officers	FY11	FY11 Unique Officers	FY12	FY12 Unique Officers
First District (1D)	100	78	143	99	88	74	70	53	66	57
Second District (2D)	68	60	76	60	50	38	48	38	64	48
Third District (3D)	92	65	98	69	134	76	102	70	86	64
Fourth District (4D)	58	41	83	59	76	55	69	48	70	55
Fifth District (5D)	53	41	76	53	51	39	70	52	63	50
Sixth District (6D)	97	72	189	122	112	77	135	85	165	116
Seventh District (7D)	111	78	130	94	78	64	67	53	78	70
Other	64	55	76	53	45	32	47	39	58	50
DCHA	15	10	13	9	3	2	8	8	11	8
Unidentified	201	201	196	209	225	225	197	189	223	223
Total	859	701	1080	827	862	682	813	635	884	741

6. City Wards

Table 26: City Wards

	FY08		FY09		FY10		FY11		FY12	
Ward 1	64	10.7%	49	8.9%	88	15.1%	60	10.8%	56	9.8%
Ward 2	92	15.3%	72	13.1%	74	12.7%	72	12.9%	89	15.5%
Ward 3	33	5.5%	30	5.5%	28	4.8%	22	3.9%	25	4.4%
Ward 4	53	8.8%	43	7.8%	59	10.1%	60	10.8%	49	8.5%
Ward 5	69	11.5%	65	11.8%	60	10.3%	59	10.6%	57	9.9%
Ward 6	99	16.5%	95	17.3%	78	13.4%	55	9.9%	87	15.2%
Ward 7	88	14.7%	89	16.2%	103	17.7%	95	17.1%	94	16.4%
Ward 8	91	15.2%	97	17.6%	64	11.0%	76	13.6%	65	11.3%
Unidentified / Not in D.C.	11	1.8%	10	1.8%	28	4.8%	58	10.4%	52	9.1%
Total	600		550		582		557		574	

Chart 26: City Wards (as a Percentage)



G. Outreach

1. Fiscal Year 2012

In Fiscal Year 2012, the Office of Police Complaints (OPC) made several significant improvements to its online presence, and continued to focus its outreach efforts on underrepresented groups. Agency representatives conducted or participated in 27 public outreach events, including at least two such gatherings in each of the District's eight wards.

OPC launched an updated and more accessible website as part of a District government web redesign project. The agency added to its website fillable PDF complaint forms in 15 different languages, allowing users to provide detailed typewritten complaints that can be printed out and submitted. OPC also added a link allowing visitors to the agency's website to report positive interactions with police officers using MPD's commendation form. The website now also features updates about the implementation status of the policy recommendations issued by the Police Complaints Board (PCB).

OPC also launched a Facebook page, providing reports, updates, and agency information to an even broader audience than previously reached through the website alone. Taken together, OPC has expanded its online presence and made it even easier for people to access information about the agency's services.

As a part of its outreach, the agency seeks out opportunities to make educational presentations to a variety of audiences, targeting those populations that agency statistics suggest are underreporting police misconduct. In Fiscal Year 2012, OPC focused on reaching out to District of Columbia schools, tenants' groups, community-based organizations that serve individuals with limited proficiency in English, and neighborhood associations. Examples of these efforts are below.

OPC's outreach to high schools students included conducting the agency's Student Interactive Training (SIT) program at several District schools, including Capital City and Cesar Chavez public charter schools, School Without Walls, and Woodrow Wilson, Ballou, Dunbar, and Anacostia senior high schools. The SIT program focuses on promoting positive interactions between youth and the police as well as educating young people on knowing their rights through role-playing scenarios. In addition, agency representatives served as guest lecturers for students in American University's Washington Semester program.

D.C. tenants' groups hosted agency presentations to residents of Garfield Terrace, Syphax Gardens, Benning Terrace, and Kenilworth public housing complexes. During these sessions, OPC staff members provided an overview of the complaint process and explained to residents the agency's authority to investigate citizen complaints against police officers employed by MPD or DCHA's Office of Public Safety.

To build upon its outreach to the District's Spanish-speaking population, OPC participated in the Office on Latino Affairs Spring Community Fair held in Ward 5. The event centered on the city's Spanish-speaking population. In addition, the agency took part in

the Office on African Affairs D.C. Africa Festival. OPC staff distributed informational materials and discussed the citizen complaint process with attendees of both events.

Two neighborhood associations invited OPC employees to make presentations. Agency staff members attended a meeting of the 4th District Citizens Advisory Council and provided information about OPC to residents. The advisory council meetings provide people with an opportunity to discuss police-related issues with officers in their community. OPC also presented to members of the 16th Street Heights Citizens Association.

In addition to conducting outreach to the public, OPC participated in the training of new recruits at MPD's police academy. Chief Investigator Mona Andrews visited the academy five times, speaking to eight classes of recruits about the mission and function of OPC.

OPC continued to gain media coverage throughout Fiscal Year 2012. The agency's executive director, Philip Eure, was a guest on SiriusXM Channel 141's radio show "Sighlent Storm," which focused during a particular broadcast on the heightened national awareness of police accountability issues in the wake of the Trayvon Martin shooting in Sanford, Florida. In addition, National Public Radio affiliate WAMU 88.5 in Washington, D.C., interviewed Special Assistant Nicole Porter about PCB's 2012 policy recommendation on traffic enforcement by off-duty police officers. The agency was also featured as a partner for the month of April on the National Black Caucus of State Legislators (NBCSL) "State Issues" section of its website.

2. *The Year Ahead*

During Fiscal Year 2013, OPC will continue its outreach efforts by actively seeking out and participating in events in each of the District's wards. The agency will focus its efforts on coordinating with community groups, social service providers, and legal advocacy organizations that work with populations that frequently come into contact with the police.

OPC will also continue to update its new website to make online visitors' experiences as easy as possible, all the while developing fresh content to display on its Facebook page.

H. Police Oversight and Law Enforcement Organizations

OPC staff members have played an active role in professional organizations related to independent police review and have learned from and contributed to the discussions and training seminars conducted by these groups.

Every year since 2001, when the agency opened, OPC staff members have participated in panel discussions and workshops at conferences sponsored by National Association for Civilian Oversight of Law Enforcement (NACOLE), the non-profit umbrella group for agencies like OPC around the country. From 2005 to 2012, OPC Executive Director Philip Eure served on the board of directors of NACOLE, and was the president of the organization from 2008 to 2009, and again for part of 2010.

NACOLE held its annual training conference in San Diego, California, in October 2012. The theme for the gathering was “Building Community Trust.” Mr. Eure organized and moderated a panel that provided training for attendees on how to develop policy recommendations. The panel also featured OPC Special Assistant Nicole Porter. Deputy Director Christian Klossner moderated a roundtable discussion on mediation, sharing OPC’s experiences with oversight practitioners from throughout the United States who are interested in starting or improving their own programs.

The agency expects that OPC representatives will continue to share their expertise with other police accountability professionals around the nation and take part in conferences and training sessions aimed at keeping OPC staff members apprised of and contributing to best practices in the field.

I. Policy Recommendations

The statute creating the Police Complaints Board (PCB) authorizes it to “make recommendations, where appropriate, to the Mayor, the Council, and the Chief of Police concerning . . . those elements of management of the MPD affecting the incidence of police misconduct, such as the recruitment, training, evaluation, discipline, and supervision of police officers.”²⁷ This authority allows the agency to go beyond its day-to-day work of investigating and resolving individual police misconduct complaints to examine systemic issues that lead to the abuse or misuse of police powers. This year, PCB issued one report accompanied by a set of recommendations, which are discussed in more detail below. To date, PCB has issued 28 detailed reports and sets of recommendations for police reform, and overall, the Board has been satisfied with the steps taken by MPD and the city to implement the proposals made by the Board. Many recommendations in these reports have already been fully adopted, while others are in the process of being implemented or are being actively considered MPD or other District agencies. All of the policy recommendations are currently available on OPC’s website.

1. Traffic Enforcement By Off-Duty Officers

On September 27, 2012, PCB issued a report and set of recommendations entitled, “Traffic Enforcement By Off-Duty Officers.” The Board issued this report based on concerns

from motorists that some MPD officers who were off duty, out of uniform, and driving either their personal vehicles or MPD cruisers made stops for minor traffic violations or for traffic incidents in which the officers were personally involved. In reviewing MPD's policies governing traffic enforcement for off-duty officers, OPC staff found that the policies lacked clarity, especially since the relevant regulations were contained in multiple locations, resulting in insufficient guidance to officers. The agency also discovered that the police department did not have a directive generally setting forth standards of conduct for off-duty officers engaged in law enforcement. PCB's report proposed that MPD revise its current policies to clarify when off-duty officers should engage in traffic enforcement. The report also recommended that MPD consider including in an existing policy, or creating as part of a separate protocol, overall standards of conduct for off-duty officers. PCB further recommended in its report that MPD conduct training on the revised policies and adopt additional reporting requirements for off-duty officers who interact with the driving public.

2. Status Updates for Policy Recommendations

In this year's report, details about any steps taken in response to specific PCB recommendations that were issued in recent years are included in Appendix A. The appendix has tables that list the specific recommendations made by the Board and the status of the implementation of those recommendations. The full reports and any updates that were included in earlier annual reports are available on OPC's website. In addition, the agency has made revisions to its website, allowing online access to updates that readers can easily access without referring to annual reports. Toward that end, OPC has invited the police agencies and other offices that are the subject of policy recommendations to submit updates as they make progress toward implementation so that OPC can publish the most current information available on its website.

III. THE FUTURE

In fiscal years 2012 and 2011, the Office of Police Complaints (OPC) increased the number of cases it closed while also decreasing the total number of cases remaining open at the end of the fiscal year. These successes were attributable in large part to reallocating resources from other areas of the agency's work, causing that work to suffer as a result. Specifically, the agency did not have the capacity to research and produce as many policy recommendations as it had hoped. Because of the growing importance of policy reviews in the field of citizen oversight, the agency will work closely with the Executive Office of the Mayor and the District Council to ensure that the agency has the resources to boost the production of policy recommendations in the coming years, as well as sufficient funding to investigate, adjudicate, and mediate citizen complaints.

With those objective in mind, the Police Complaints Board (PCB) plans to issue a number of policy recommendations in Fiscal Year 2013. The agency will produce reports and develop recommendations addressing the following issues: 1) police officer mishandling of arrestee property; 2) following up on PCB's prior report concerning bicyclist safety; and 3) warrantless entries by MPD officers into private residences.

Should the District Council take up meaningful police monitoring legislation that would provide for oversight of citizen complaints handled by MPD, the agency stands ready to weigh in with evidence and examples of how such monitoring has worked in other places and what it would take to implement a successful model in Washington, D.C. As the world of police accountability evolves, we want the District of Columbia's PCB and OPC to continue in the forefront of carrying out the widest possible range of functions among independent police review agencies.

Endnotes

¹ When counting the overall outcome for a complaint, a complaint that has at least one sustained allegation is counted as a sustained complaint. The number of sustained complaints is determined by this method because if a complaint has at least one sustained allegation, it must be forwarded to the chief of police of the relevant law enforcement agency for imposition of discipline, even if the other allegations are not sustained. The only time that a complaint is not forwarded to the police chief for discipline is when no allegations are sustained. In these cases, the complaint is dismissed after the complaint examiner issues his or her decision.

² See D.C. Official Code § 5-1112 (2001 ed.).

³ *Id.*

⁴ The four possible outcomes that a complaint examiner may reach are: 1) Sustained – where the complainant's allegation is supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper; 2) Exonerated – where a preponderance of the evidence shows that the alleged conduct did occur but did not violate MPD policies, procedures, or training; 3) Insufficient Facts – where there are insufficient facts to decide whether the alleged misconduct occurred; and 4) Unfounded – where the investigation determined no facts to support that the incident complained of actually occurred. D.C.M.R. § 2120.2.

⁵ The category “Retaliation” was deleted from the table because no allegations in that category were adjudicated by complaint examiners in Fiscal Year 2012.

⁶ See D.C. Official Code § 5-1114 (e).

⁷ Metropolitan Police Department General Order 201.20, *Performance Management System (PMS) for Sworn Members in the Rank/Position of Civil Service Sergeant, Investigative Personnel, and Officer* (April 13, 2006).

⁸ *Id.*

⁹ Metropolitan Police Department General Order 120.21, *Disciplinary Procedures and Processes* (April 13, 2006).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ As of the date of issuance of this report, a disciplinary determination regarding one officer is still pending.

¹⁴ The three resignations reported in this table include two that resulted from the criminal convictions discussed in Section II.C.1 of the Police Complaints Board Annual Report for Fiscal Year 2007. Resigning from MPD was part of the plea agreements entered into by both subject officers.

¹⁵ Samuel Walker, Carol Archbold, and Leigh Herbst, *Mediating Citizen Complaints Against Police Officers: A Guide For Police and Community Leaders*, U.S. Department of Justice, Office of Community Oriented Policing Services, at 40 (2002), available at <http://www.cops.usdoj.gov/Publications/e04021486.pdf>.

¹⁶ Given the complexity of comparing the work of independent police review agencies, the care used by Professors Walker, Archbold, and Herbst in developing their measures is significant. Each agency has different authority and responsibility, which affects the universe of complaints it can consider and resolve, the types of allegations it investigates, and the resolutions it can reach, all of which add to the challenge of finding suitable methods of comparison. Consequently, readers should use caution when attempting to compare agencies and carefully scrutinize measures and what they purport to show.

¹⁷ These data were obtained from representatives of CCRB and OCC on January 4, 2013, and January 3, 2013, respectively. The data from OCC were current as of the date obtained, while the information from CCRB is from late October 2012. The data pertaining to OPC reflect the agency caseload on January 2, 2013.

¹⁸ These data were obtained from representatives of the Metropolitan Police Department, CCRB, and OCC, and represent current data as of January 4, 2013.

¹⁹ See D.C. Official Code § 5-1111(d).

²⁰ See D.C. Official Code § 5-1110(k).

²¹ See *infra* endnote 22.

²² OPC uses “workload” to describe the number of complaints that agency personnel worked on throughout the year. This number is derived by adding the number of cases open at the beginning of a fiscal year to the number of all new complaints received during that fiscal year.

²³ A complaint examiner used his authority to conciliate a case that had been referred for a merits determination. See Section B(1), “Complaint Examination, Decisions in FY12,” for more information.

²⁴ The “District Population” data in Tables 10, 11, and 12 are included for reference purposes, and reflect the most current data available. It should be noted that anyone, whether a resident of the District or not, may file a complaint with OPC. Readers should also use caution when making comparisons between the population data and the complaint data for any particular fiscal year. The breakdown of the District population has changed some over time, so the value of these data as a comparator may vary as the difference in the age of the data sets increases.

The data in Tables 10 and 11 are 2011 estimates, and were obtained from the United States Census Bureau, District of Columbia State and County Quickfacts, which can be found at <http://quickfacts.census.gov/qfd/states/11/11001.html>.

Please note that in Table 10, the District population data for race or national origin add up to more than 100%. The Census Bureau data set considers Latino identification as an ethnic group that can include individuals who identify as members of different races, and the data set does not adjust the other categories (such as white or African-American) to separate out people who identify as both Latino and one of the other categories. Table 10 also included Middle-Eastern to reflect how OPC complainants self-identify, but is not a classification in the census data.

The data in Table 12 were obtained from the “U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement, 2011” on the United States Census website, <http://www.census.gov/population/age/data/2011comp.html>, published on-line in November 2012.

²⁵ The “Entire MPD Force” data included in this section for gender, race, and rank were obtained from the official MPD roster of December 2011, which was during OPC’s Fiscal Year 2012. On that date, MPD had 3816 sworn members, and the data reflect the breakdown of those officers as reported by MPD. This roster, however, did not include data on age or length of service. The data for the charts and graphs reflecting the distribution among those two categories is based on the official roster from October 2010. Readers should note that although OPS subject officers are included in the subject officer characteristics data, they are not included in the “Entire MPD Force” data. Complete demographic data for the OPS force are unavailable.

Caution should be used when making comparisons between the police force data and the complainant data for any particular fiscal year. The breakdown of the police force has changed some over time, so the value of these data as a comparator may vary as the difference in the age of the data sets increases.

²⁶ Data regarding subject officers’ assignments have fluctuated from year to year. Readers should use caution when attempting to draw conclusions from the year-to-year trends regarding the assignments of subject officers.

²⁷ See D.C. Official Code § 5-1104(d)

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Appendix A: Policy Recommendation Status

Table 27: Traffic Enforcement By Off-Duty Officers

(September 27, 2012)

Recommendation	Status
<p>MPD should issue a revised and updated general order that clarifies when off-duty officers should conduct traffic stops. Currently, MPD’s policy pertaining to traffic stops, General Order 303.1, must be read in conjunction with another directive to grasp its meaning fully. Additionally, because the language in both directives is somewhat confusing, officers may not completely understand the limitations placed on off-duty officers who conduct traffic stops. The revised policy should be reworded to clearly prohibit off-duty officers from engaging in traffic enforcement, except under narrow, limited circumstances. For example, General Order 303.1 could be revised to state definitively, in a single sentence, that traffic enforcement must be conducted by on-duty uniformed officers in marked Departmental vehicles, and that all other officers may take enforcement action only where the violation is so grave that it poses an immediate threat to others. Like the IACP concepts and issues paper, the revised policy should also give examples of the kinds of situations that warrant, and do not warrant, enforcement action by off-duty officers. In addition, tables similar to the ones included on page 3 of this report may help officers better conceptualize their obligations under the policy.</p>	<p>Pending. MPD reports that its Policies and Development Branch recently began a review of General Order 303.1, “Traffic Enforcement,” as part of an ongoing effort to update policies and incorporate best practices. Although MPD stated that it felt PCB’s recommendations are covered in other general orders, it pledged to consider these recommendations as part of its review.</p>
<p>MPD should revise General Order 301.04 to state that uniformed off-duty officers operating take-home cruisers are allowed (as opposed to required) to engage in traffic enforcement. The directive should also stress that traffic enforcement action by nonuniformed officers operating take-home cruisers, whether on duty or not, should occur only under conditions set forth in revised general order 303.1. These revisions will make the two directives consistent with one another.</p>	<p>Pending. MPD reports that it has revised General Order 301.04 and that the revisions are pending final approval.</p>

<p>MPD should consider creating in a new policy, or including in an existing protocol, general standards of conduct for off-duty officers. The standards should stress that off-duty officers who are personally involved in the matter should not engage in enforcement, except under very limited circumstances. The policy should also provide examples of appropriate and inappropriate off-duty conduct.</p>	<p>Pending. MPD reports that its current General Orders 201.26, “Duties, Responsibilities and Conduct of Members of the Department,” and 201.36, “Metropolitan Police Department Sworn Law Enforcement Code of Ethics,” provide instruction for off-duty conduct, but that the Department will consider adding more guidance to General Order 201.26 in response to PCB’s recommendation.</p>
<p>MPD should institute record-keeping requirements for off-duty officers initiating contacts. Adding such requirements will add a level of scrutiny and accountability to contacts initiated by off-duty officers, and may possibly deter those officers from making inappropriate contacts.</p>	
<p>MPD should provide training on the Departmental policies and reporting requirements that are created to address these issues.</p>	<p>Pending. Although MPD’s response did not include this specific recommendation, PCB is aware that the Department has been proactive in ensuring its officers receive training on updated or new orders through roll call briefings, on-line training modules, and notices in its internal publications.</p>

Table 28: Improving the Safety of Bicyclists and Enhancing Their Interactions with Metropolitan Police Department Officers

(September 29, 2011)

Recommendation	Status
<p>Revise MPD General Order 401.03, which covers crash reporting procedures. The MPD general order requiring officers to finish crash reports by the end of their shifts is unfair to both officers and bicyclists. MPD should revise its directive to allow officers to leave crash reports as pending until all necessary statements are obtained. MPD should also require that officers explain in the final report any missing statements from those involved in the crash, similar to the policy in Minneapolis.</p>	<p>Adopted in part, not adopted in part. MPD revised General Order 401.03. Although the Department rejected PCB’s recommendation that crash reports remain pending, the new order clarifies that all parties must be interviewed and requires that officers fill out supplemental reports (a “PD 252”) to include statements obtained later. MPD also reports having developed a training module that includes video scenarios that reinforce already issued policies regarding the handling of certain types of bicycle crashes.</p>
<p>Include a bicycle-specific field on the PD Form 10. MPD should add a category for bicyclists in its “Type of Crash” field, and add a “riding into the road” category in its “Primary Contributing Circumstance” field. The ability to select specific actions and possible risk factors makes reporting collisions more efficient and ensures accurate data are captured in a manner that allows officer discretion only in the initial recording of the data rather than allowing for an additional interpretive step when the statistics-collecting body tries to deduce these actions or factors from an officer’s narrative in a report form. The resulting, more detailed statistical report of crash data will allow targeted action to be taken to address the problems identified therein.</p>	<p>Not adopted. MPD asserts that the form should remain as is, pointing out that the current fields can be searched for bicycles, allowing for adequate research and analysis, and that these fields already allow for selections that fit bicycle crashes. In rejecting this proposal, MPD acknowledges the need for greater emphasis on better narratives prepared by officers, interviewing all involved parties, and proper charging of bicycle-related offenses.</p>

<p>Continue training MPD officers on bicycle safety. MPD has commendably launched efforts to establish better understanding of cyclist behavior and concerns through its bicycle and pedestrian safety class. However, some vital subjects are missing from the curriculum, such as the proper use of bike lanes. Moreover, officers who take the bicycle and pedestrian safety course are not rigorously tested on the regulations that they review in the class. MPD should allow for outside bicyclist advocates, such as members of WABA, to contribute to the class by reviewing and providing input on the curriculum and providing additional training where needed. Also, the District should provide funding for the printing of more WABA books so that MPD officers may quickly and easily look up particular bicycle laws while in the field. At a minimum, DDOT, which has the source material for the WABA book on its website, should make sure to provide this information to MPD electronically, so that MPD could disseminate the information to all officers responsible for enforcement of the bicyclist and traffic laws.</p>	<p>Adopted. MPD reports that it has increased roll call training, completed a training module in 2011, and has nearly completed a new module with video-based scenarios, as suggested by the BAC Safety Committee after it reviewed the 2011 module. MPD also states that more WABA books have been printed and distributed, that it has been posted on and viewed from MPD’s intranet.</p> <p>DDOT reports that it contributes to the training of MPD officers through the computer-based interactive module, that is has printed and delivered more pocket law guides, and that it is working with WABA to develop an app with similar and additional information for officers and cyclists</p>
<p>MPD’s involvement in the Bicycle Advisory Council (BAC) should increase and BAC should be strengthened. While a District government-led task force, BAC, already exists, MPD’s involvement has not been consistent and the group has not recently issued any recommendations regarding MPD enforcement of bicycle regulations. Therefore, MPD and the city’s bicyclist community could both benefit from an increased MPD presence in BAC, similar to the way the bicycle task force operates in Los Angeles. Because there are perceptions that some officers are pro-motorist and that a certain percentage of bicyclists openly flout the traffic laws, bringing together MPD and various representatives of the District’s biking community more often would promote greater understanding of relevant concerns and allow BAC to directly address them. MPD and bicyclist advocacy groups could also use this forum to make targeted recommendations to MPD, DDOT, and WABA that would educate police officers and cyclists and promote awareness and understanding between the two groups, similar to how the bicycle task force functions in Los Angeles. Since BAC has already been given the authority to provide advice to the District on matters pertaining to bicycling issues, the task force should exercise that power when faced with concerns from the cycling community, such as those discussed at the February 2011 hearing. Finally, to increase its visibility and encourage more public participation, BAC should publish a full list of committee members, post its meeting minutes on its website, and establish a listserv that generates messages notifying interested parties of upcoming meetings and other important developments.</p>	<p>Adopted. MPD reports having representatives occasionally attend BAC meetings and actively participating in BAC-hosted online discussions. The Department states that it has used bike-mounted officers to engage the bicycling public in an effort to conduct better outreach. MPD describes its participation with BAC as “solid.”</p> <p>DDOT reports that MPD has increased its involvement with BAC, and BAC states that MPD is now the most engaged it has been in the past 20 years.</p> <p>BAC also states that it has published its membership list on its website, http://dcbac.blogspot.com/p/about-bac.html, and that notice and minutes of the advisory council’s meetings are emailed to the BAC listserv.</p> <p>PCB notes that BAC has an extensive online presence, posting a variety of information about its activities on its blog, which include developing policy recommendations. BAC also maintains a Twitter feed (twitter.com/DCBAC), a Facebook page (DC BAC), and a Google group (DC Bicycle Advisory Council), and posts updates through Google+ (DCBAC).</p>

Table 29: MPD Investigation and Reporting of Minor Traffic Accidents

(August 16, 2011)

Recommendation	Status
<p>MPD should retrain officers on General Order 401.03 so that officers are familiar with its requirements. The training should reinforce the general order's requirements, namely, that officers must notify motorists involved in a minor traffic accident that a Traffic Crash Report is not required, disseminate the PD Form 10-Cs, conduct WALES checks for the motorists, and ensure that accurate information is exchanged for those traffic accidents where the damage is less than \$250. It is important that officers understand that their responsibilities regarding minor traffic accidents are <i>not discretionary</i>. Because officers have not consistently followed the general order's provisions, drivers involved in minor traffic accidents are left empty-handed and puzzled. PCB understands that the PD Form 10-C is currently being revised. However, until the form is issued, officers should distribute the current form so that drivers have a written record of the accident.</p>	<p>Pending. MPD did not respond to this specific recommendation when it furnished updates for the three other recommendations listed below. PCB notes, however, that the Department used its internal daily publication to notify officers of the new order, specifically including mention of the required distribution of the PD Form 10-C.</p>
<p>MPD should revise General Order 401.03 to require MPD officers to ensure the exchange of accurate information for all traffic accidents. Under current MPD policy, officers must ensure that drivers exchange information only if the damage is less than \$250. This leaves a loophole whereby motorists who have property damage of \$250 or above, but do not otherwise meet the requirements needed for a Traffic Crash Report, have no way of ensuring that they are receiving proper information from the other motorist, thus making it challenging for them to file an insurance claim if they have received inaccurate information. In addition, it may be difficult for officers to accurately and consistently approximate vehicle or property damage. This may result in officers prematurely leaving the scene before ensuring that proper information is exchanged. Accordingly, MPD should revise its directive to close this loophole.</p>	<p>Adopted. In accordance with the recommendation, MPD made changes to General Order 401.03 in June 2012 that require information from all involved parties to be exchanged, regardless of estimated damage or cost, ensuring that motorists involved in an accident have the other party's information, thus eliminating the need for officers to estimate the value of the property damage.</p>

<p>MPD and DDOT should consider creating a webpage outlining MPD and DDOT's policies regarding the completion of traffic reports. Widespread public knowledge and understanding among the driving public will foster greater compliance and make more certain that DDOT is receiving the critical information that it is currently lacking. PCB recommends that the two agencies use all available channels to raise awareness of MPD's and DDOT's policies regarding the completion of traffic reports. The two agencies should consider creating a webpage outlining their policies and possibly include a "Frequently Asked Questions" segment on the webpage. This webpage should be accessible from both the MPD and DDOT websites. Printed copies of the webpage should also be made available in police stations and DMV service centers. If the creation of such a webpage proves to be too costly, as an alternative measure, the two agencies could also place information pertaining to accident reporting on existing agency webpages.</p>	<p>Pending. MPD notes that it has posted the PD Form 10-C, or "Motor Vehicle Crash Report for Property Damage Only," on its website. DDOT states that it would post MPD's policies if the Department provides them. PCB notes that MPD's General Order 401.03 is on the MPD website, although it is not easy to find.</p> <p>PCB continues to recommend that MPD and DDOT take steps beyond providing the form to help motorists understand when an accident report is and is not required. Currently, both websites offer the PD Form 10-C without any explanation of when it is required, thereby not clearing up the confusion by members of the public that they are entitled to an accident report.</p>
<p>MPD and DDOT should issue the revised PD Form 10-C and make it accessible to motorists involved in traffic accidents. Again, PCB commends MPD and DDOT for its efforts in revising the PD Form 10-C to make it much more useful to motorists and the District. To date, however, the revised PD Form 10-C has not been issued. Because the revised form would be helpful to DDOT in assessing traffic crashes and collisions in the District and would allow for motorists to provide more detailed information to insurance companies, PCB urges the two agencies to complete any changes and issue the form promptly, posting the form online on MPD's and DDOT's websites and making printed copies of the form available in police departments, DMV service centers, and car rental agencies.</p>	<p>Adopted. MPD issued the PD Form 10-C, or "Motor Vehicle Crash Report for Property Damage Only," in June 2012. The form was circulated internally when released, and printed copies of the form were distributed to the districts. Officers were given an Internet address to provide to motorists so that the public could obtain and complete the form. MPD posted the form on its website in August 2012. DDOT also has posted the form on its website.</p> <p>PCB notes that the form on both sites is a fillable PDF, allowing users to complete the form by typing before printing and submitting it, which should allow easier completion and analysis by DDOT.</p>

**Table 30: Increasing Public Awareness Of District Of Columbia Laws Governing Mopeds And Motor Scooters
(August 13, 2010)**

On December 18, 2012, the District Council passed the “Motorized Bicycle Amendment Act of 2012.” This legislation, among other things, repeals the definition of “moped,” adds a class of vehicles called “motor driven cycles,” and changes requirements for registration, inspections, insuring, and licensing of these various kinds of vehicles. DMV reported to PCB on January 15, 2013 that the recommended updates would be postponed until after the expected enactment of the new legislation. MPD pledged to work with DMV in developing new materials once the law is enacted.

While PCB understands that implementing the suggestions below before the new law goes into effect would be wasteful, many of the recommendations made by PCB remained pending prior to the passage of the new law. Therefore, the table below is presented as it was in last year’s annual report to show what the implementation status was prior to the passage of the new law. In addition to the information from last year, MPD notified PCB that prior to the law’s passage, it had posted the previous version of its flyer and other relevant informational material on the MPD website at “Safety & Prevention > Traffic Safety > Streets > Mini-bikes and Other Small Vehicles.” MPD had also issued a special order in November 2012 providing guidance to its officers on enforcement issues relating to these kinds of vehicles.

Recommendation	Status
<p>The District, through DMV and with input from MPD, other interested District agencies, and community stakeholders, should consider developing an informational brochure that, as simply as possible, explains the differences between, and requirements for, motorcycles and motorized bicycles. The brochure should highlight and emphasize that motor scooters capable of speeds higher than thirty five miles per hour are considered motorcycles under District law, regardless of the vehicle’s appearance or its designation by the manufacturer as a “moped” or “motor scooter.” The brochure should also make clear that those mopeds and motor scooters classified as motorized bicycles under D.C. law are still subject to registration, insurance, and inspection requirements.</p>	<p>Pending. DMV reported in January 2011 that staff cuts limited the agency’s brochure production capacity to copying existing information and, therefore, the updated brochure recommended by PCB was placed on hold. DMV anticipates eventually having the eliminated position restored and being able to produce the suggested brochure.</p> <p>Although MPD reports having developed a flyer and a poster in the spring of 2009 (prior to the issuance of PCB’s policy recommendation), consistent with PCB’s recommendation, PCB still hopes that MPD will provide input as DMV develops the suggested brochure.</p>
<p>DMV should make copies of the brochure available for general distribution at each of its service locations and should supply the brochure to anyone who seeks to register a moped or motor scooter in the District.</p>	<p>Pending. DMV stated it would make the recommended brochure available in DMV service centers once the production capacity has been restored.</p>

DMV should offer copies of the brochure to motor scooter, moped, and motorcycle dealerships in the Washington, D.C., metropolitan area and encourage distribution to customers to ensure that prospective motor scooter and moped operators are made aware at the outset of D.C. legal requirements governing these vehicles.	Adopted in part, pending in part. DMV reported that once the brochure is created, it will refer area dealerships to its website. DMV stated further that it would distribute its chart, entitled “Non-Traditional Motor Vehicles and DC Law,” at the Washington Auto Show WANADA Seminar for area dealerships. DMV added a link to the chart to the section of the agency’s website that contains information for dealers.
DMV should prominently display the brochure on its website, such as through inclusion of a link to it in the “Did You Know” sidebar on its home page.	Adopted in part, pending in part. As above, the brochure has not been produced. However, DMV reports adding a link to its “Non-Traditional Motor Vehicles and DC Law” to the “Did You Know” section of the homepage.
MPD should have copies of the brochure available for distribution at each of its district stations and should consider having officers carry a limited number in their police cruisers for distribution to persons ticketed or warned for failing to comply with the relevant laws.	Adopted in part, pending in part. MPD reports that the spring 2009 poster was distributed to recreational centers and posted at police districts’ stations. MPD further reports that the spring 2009 flyer is available at police districts and has been distributed to police officers.
MPD should include a link to the new brochure on the existing MPD traffic safety page that currently provides information about mopeds, motor scooters, and other non-traditional motor vehicles.	Pending. Although MPD reports that this was completed in 2009, prior to the release of PCB’s report and recommendations, PCB hopes that if DMV produces a new brochure, MPD will continue to feature a link from MPD’s website to the new materials.
DMV should consider developing a public service announcement explaining the requirements for lawful and safe operation of mopeds and motor scooters in D.C. for possible airing on the District’s cable television channel or other appropriate media.	Not adopted. DMV reports that it does not currently have the capacity to produce public service announcements.

Table 31: Monitoring Citizen Complaints That Involve Police Response to Reports of Hate Crime

(September 30, 2009)

In addition to MPD's efforts described in the table below, the Department also deserves credit for steps it has taken that go beyond the specific recommendations contained in PCB's report. For example, some MPD officers were detailed to the Department's Special Liaison Branch (SLB) where they received specialized training relating to hate crimes, and then returned to their patrols in the field with ongoing access to SLB resources and guidance. MPD has also repeatedly used its internal daily newsletter to remind officers of the protocols for taking reports of hate crimes.

Recommendation	Status
MPD should collaborate with OPC to establish a system to monitor complaints filed with both agencies that allege inadequate police response to a report of hate crime. MPD should identify relevant complaints even where the complainants may fail to use terms such as "hate crime" or "bias crime."	Adopted in part, not adopted in part. PCB shared its data with MPD but did not receive a response from the Department. However, MPD reports conducting internal monthly meetings to review all bias-related and hate crimes that occurred in the past month as well as all ongoing hate and bias-related criminal investigations.
MPD should invite other District agencies, such as OPS (formerly DCHAPD) and OHR, to participate in the information-sharing and monitoring process. In the event patterns or trends are identified that suggest the need for corrective action, such information should be noted and brought to the attention of MPD and PCB. Further, to the extent information about these complaints appears appropriate for inclusion in the Mayor's statutorily mandated report of bias-related crime issues, such information should be transmitted to the appropriate officials.	Adopted. In addition to extensive efforts described in previous annual reports, MPD now adds that it works with the U.S. Attorney's Office hate crimes representative to share information on cases, including those that may subsequently be deemed a hate crime. The Department also works with college and university security personnel and other law enforcement agencies in the District to support the accurate reporting and investigation of bias/hate-related crimes or incidents. .
MPD should utilize the existing framework of the Fair and Inclusive Policing Task Force and the D.C. Bias Crimes Task Force to address community concerns about police responsiveness to hate crime and work with its task force partners to ensure that all constituencies covered by the D.C. Bias-Related Crimes Act receive education and outreach, particularly groups for whom hate crimes data suggest underreporting.	Adopted. MPD indicates that it participates in monthly meetings of the D.C. Bias Crimes Task Force, and reconvened the Fair and Inclusive Task Force, which met in March 2012.

Table 32: Taxicab Drivers and MPD Enforcement of the District’s Taxicab Regulations
(September 8, 2009)

Recommendation	Status
DCTC should review for accuracy and clarity rules and regulations governing taxicab drivers, particularly those that address issues raised in this report, and make such revisions as are necessary to promote understanding and compliance.	Pending. DCTC reports that its current efforts to modernize the taxicab industry include a reconsideration of existing rules and regulations, with section-by-section amendments as appropriate both for clarity and to reflect changes being made in the program, such as requirements for credit card processing, uniform taxicab design, and a uniform dome light.
DCTC should consider making available translations of important rules and regulations in the non-English languages most commonly spoken by taxicab drivers.	Not adopted. DCTC states that all taxicab drivers are required to speak, read, and write English as a condition of obtaining a license.
DCTC and UDC should assess the current UDC taxicab pre-license training course and work together to incorporate relevant provisions of Title 31 of the D.C. Municipal Regulations into the course content. Efforts should also be made to include a significant number of questions from Title 31 in the UDC simulated final examination.	Adopted in part, pending in part. DCTC states that the “Taxicab Service Improvement Amendment Act of 2012” vests authority for these educational services with the Commission. DCTC adds that the new structure will include public relations, cultural awareness, operator refresher, and wheelchair accessibility. The Commission expects to use public vehicle inspection officers (formerly known as hack inspectors) and MPD officers as instructors or guest presenters.
DCTC should require taxicab drivers to attend annual refresher training that centers on Title 31 of the taxicab regulations and applicable District law.	
DCTC and UDC should recruit interested MPD officers and DCTC hack inspectors to serve as instructors or guest presenters.	Pending. DCTC reports that more training, including joint training sessions with MPD similar to those previously conducted with the U.S. Park Police, is necessary for complete enforcement of taxicab regulations.
MPD and DCTC should establish regular joint training sessions for hack inspectors and MPD officers.	
MPD should review and update its current training materials and general orders, offer annual in-service training on taxicab enforcement to all MPD officers, and continue to provide roll-call training to inform officers of important changes in taxicab rules and regulations.	Adopted. MPD stated in December 2011 that it had worked to clarify any confusion on the part of officers by providing updates through its teletype system, as well as training during roll call, and that all corrections and clarifications would be incorporated into the recruit and professional development training programs and in MPD directives.

Recommendation	Status
<p>Both MPD and DCTC should review taxicab citations issued by their respective agencies and seek to identify any problematic patterns or trends. To address concerns about discriminatory enforcement, MPD and DCTC should develop a system to review individual citations, in order to spot outliers, <i>i.e.</i> officers or inspectors whose citation issue rates are higher than average. This can be accomplished by noting which infraction specified in D.C. Mun. Regs. tit. 31 § 825 was incurred, which officer or inspector issued the citation, and any identifying information about the taxicab driver available from the citation. MPD and DCTC could coordinate to connect driver's license and vehicle ID numbers to specific individuals.</p>	<p>Adopted in part, denied in part. MPD reported in PCB's 2010 annual that it would review citations pertaining to taxicab violations in order to detect any potential patterns or trends, and that an MPD representative of the agency's Homeland Security Bureau, which oversees the Traffic Safety and Specialized Enforcement Branch, will meet with a DCTC representative on a quarterly basis to review enforcement efforts and identify and address any existing or potential issues.</p> <p>DCTC reports that it has upgraded its computer systems, which allows it to generate reports concerning the notices of violations issued by public vehicle inspection officers. The Commission states that it is prepared to use these and other resources to work with MPD to address any related concerns.</p>

Table 33: Public Drinking Arrests by MPD Officers on Residential Property

(August 17, 2009)

Recommendation	Status
<p>MPD should develop a new POCA general order and corresponding recruit and in-service POCA training. Although the general order and training should cover all aspects of POCA enforcement, special emphasis should be placed on how properly to enforce POCA in the residential context, since this is the area of greatest confusion and the one that presents the greatest potential for civil rights violations, given the primacy of the right of citizens to be free of government intrusion in and around their homes. At a minimum, the new directive and the attendant training should ensure that MPD officers know:</p> <p>a) Not all residential yard space in the District of Columbia is public property; therefore, not all District yards are subject to POCA;</p> <p>b) Most backyards are not subject to POCA, even in neighborhoods where “parking” abuts front yards;</p> <p>c) The front yards of many residential properties adjoined by “parking” consist both of “parking” and privately owned land, and arrests for POCA are not sanctioned on the part of a yard that is not “parking;” and</p> <p>d) If it is unclear whether residential yard space is “parking,” POCA arrests should not be made.</p>	<p>Adopted in part. In PCB’s 2009 annual report, MPD stated that it had updated recruit training and included in roll-call training guidance on POCA enforcement. The Department noted, however, that general orders are designed to address MPD procedures and policies, and that unless a law involves new MPD policies or procedures, the Department will not issue a general order, but instead address the matter during training. MPD now reports that it has no further update.</p>

Table 34: MPD Provision of Police Service To Persons With Limited English Proficiency (LEP)

(July 16, 2009)

Recommendation	Status
<p>MPD should develop a written policy statement that unequivocally affirms the agency's commitment to providing language assistance to LEP individuals in order to ensure that persons with LEP have meaningful access to MPD's services. The policy statement, in addition to voicing support for equalizing the treatment of LEP individuals, should emphasize the legally binding, nondiscretionary nature of this duty. The policy statement should then be included in MPD's language access plan, in any new or revised language access directives, and in all language access-related training materials.</p>	<p>Adopted. MPD published GO-SPT-304.18 (Language Access Program) on September 15, 2010, which incorporates both PCB's and DOJ's recommendations and a policy statement. MPD then provided related training to its officers on the new general order and its requirements. In addition, MPD has implemented a training curriculum through its online training system. The Department provided the following courses, which were each completed by an average of over 2400 employees: Language Line Services Training, Language Access Act Training, and Diversity in the Workplace. MPD has a Language Proficiency Certification program with Language Line to certify members, and contracts for the translation and interpretation of vital documents as well as sign language services. MPD reports also capturing information on which languages it serves for citizens filing police reports and providing more detailed information in quarterly reports.</p>
<p>Include in MPD's forthcoming language access general order clear, specific guidance for officers regarding: 1) how to recognize the need for LEP assistance 2) the mandatory legal obligation to provide such assistance, and 3) step-by-step instruction on how, <i>particularly during field encounters with LEP individuals</i>, to employ the various language assistance services currently available. A binding directive that that brings together all of the relevant information would clarify for officers how to handle field stops and routine encounters with LEP individuals. The new general order should:</p> <ul style="list-style-type: none"> - define "LEP;" - explain that LEP individuals may be able to communicate on a basic level but warn that it is easy to overestimate an LEP person's English comprehension skills; - require officers to provide language assistance to anyone who meets the objective criteria of having difficulty communicating and/or understanding and to anyone who specifically requests language assistance; - discourage officers from relying on family members, friends, or bystanders except in exigent circumstances; and - instruct officers to err on the side of providing language assistance when in doubt. 	
<p>With respect to which services to provide, the general order should outline the services and techniques available to be used, such as MPD-certified interpreters and interviewers, the Language Line, qualified outside interpreters, and translated documents. The step-by-step instruction contained in the teletypes and "Dispatch" articles should be included. This directive also should inform officers of any preferable order in which the services should be accessed and spell out when the provision of particular services is mandatory.</p>	

Recommendation	Status
<p>Enhance LEP training by including in MPD’s cultural competency and diversity training a segment that provides step-by-step review of how to identify and provide language assistance to LEP individuals, particularly during field encounters. Additionally, refine MPD’s mandatory online LEP training course to more clearly distinguish between officers’ mandatory legal obligation to provide language assistance to LEP individuals and voluntary customer service standards. In addition, include a section in its cultural competency training on assisting persons with LEP. Finally, the mandatory MPD online LEP training course should be modified to make clearer the legal obligation under Title VI and the Language Access Act to provide language assistance to the LEP community so that officers will understand that it is mandatory, not discretionary, to offer language assistance where it is needed.</p>	
<p>Adopt and incorporate the recommendations made by DOJ in its compliance review and those made by OHR in its 2008 ruling in <i>OHR v. MPD</i> (08-264-LA).</p>	
<p>Consider and utilize the federal, state, and municipal resources identified in the Best Practices section of this report to update and revise MPD’s LEP plan, directives, and training. For example, review the DOJ planning tool and the LEP departmental directives that have been adopted in Philadelphia, San Francisco, and New Jersey, as these serve as clear, relevant examples of how to incorporate and implement many of the improvements recommended by DOJ and OHR.</p>	<p>Adopted. Although MPD has not reported on whether it considered or used the resources identified in the “Best Practices” section of PCB’s report and recommendation, MPD states that its review of such practices is ongoing and considers best practices in developing both Departmental policy and training of its officers.</p>

**Table 35: Monitoring Citizen Complaints that are Investigated by the Metropolitan Police Department
and the D.C. Housing Authority Police Department**

(September 30, 2008)

Recommendation	Status
The agency's current authority should be expanded to include monitoring the number, types, and dispositions of citizen complaints investigated or otherwise resolved by MPD and DCHAPD. This monitoring responsibility should also include allowing the agency to review and report on the proposed discipline as well as the amount of actual discipline handed down by the two police departments. Further, OPC should be provided with complete and unfettered access to MPD and DCHAPD materials, including information pertaining to discipline, to carry out the monitoring function. In addition, OPC should be permitted the same full access to information and supporting documentation from MPD and DCHAPD concerning disciplinary actions taken by the two departments following the receipt of OPC complaint examiner decisions that sustain citizen complaints. This access should be extended to allow OPC to obtain all materials from MPD and DCHAPD concerning any disciplinary actions taken or that these two police departments decline to take in response to "failure to cooperate" notifications received from OPC.	Pending. A bill entitled the "Police Monitoring Enhancement Amendment Act of 2009" (B18-120) was originally introduced before the D.C. Council on February 3, 2009, and included many of the recommendations. MPD opposed the legislation, especially the portions relating to access to underlying documents. The legislation (B20-0063)-0183) was reintroduced on January 8, 2013, has three additional sponsors for a total of six council members, and is pending before the Committee on the Judiciary and Public Safety.

Table 36: Improving Police-Community Relations Through Diversion of Some Citizen Complaints to a Rapid Response Program

(September 24, 2008)

Recommendation	Status
The District Council should enact legislation to give OPC the authority to resolve some less serious complaints through a new Community Policing Rapid Response program. The program would be designed to resolve complaints more quickly by putting complainants in direct contact with first-line supervisors of subject officers to whom they could voice concerns, while also allowing supervisors to speak directly with complainants about largely service-oriented concerns or explain police department policies.	Not Adopted. There has not been any legislation introduced by the District Council to enact this recommendation.

Table 37: Video Cameras in MPD Police Cruisers

(August 28, 2008)

Recommendation	Status
<p>Establish a pilot program to install Mobile Video Recorder (MVR) technology, or video cameras, in 750 police cruisers, approximately 10-20% of the current MPD fleet, with accompanying infrastructure that ensures that officers are trained to operate the camera systems and transmit data. The infrastructure must also provide procedures for data management.</p>	<p>Not Adopted. MPD previously reported conducting a pilot program in MPD's Narcotics and Special Investigations Division. MPD published a Division Memorandum (NSID 09-01) to guide operations during the pilot program. MPD reports that as of August 2010, a pilot project of the In-dash Mobile Video Recorder system was complete. MPD tested two systems, and identified the better performing system. MPD states that very few incidents were captured on video, and that the cost of placing the preferred system in 7% of MPD's fleet would be approximately one million dollars. Citing recent budget cuts and budget priorities, MPD reports that there are "no plans in the foreseeable future to implement such a costly system with limited benefits."</p>
<p>Draft a comprehensive policy regarding MVR use by MPD officers that ensures legal and procedural safeguards, such as: prevent arbitrary enforcement, provide notice to citizens, address individual privacy concerns, and inform officers of the consequences resulting from abuse of the system by individual officers.</p>	
<p>Provide actual notice to individuals under MVR surveillance by (1) generally publicizing the adoption of MVRs, and (2) personally notifying each person subject to recording whenever practicable and at the first opportunity to do so.</p>	
<p>Develop a comprehensive program that addresses the storage, management, and use of MVR data, as well as training for staff regarding management.</p>	
<p>Develop a comprehensive retention policy for MVR data that includes formal guidelines for data retention for a reasonable period of time and data disposition, as well as establishing the Chief's authority to extend or amend guidelines. The policy should reflect a balance between the need to retain evidence for possible adjudication and privacy concerns. Data retention time periods should be tailored to the expected use of the data, such as evidentiary support in criminal case or in cases in which MPD may be subject to civil liability, as well as for training purposes. However, a maximum storage time period of three years is recommended, subject to extension by the Chief.</p>	
<p>Establish an MVR auditing system to ensure that each officer is operating the equipment, recording data, and uploading information in accordance with MPD policies. Periodic checks should be accomplished to ascertain if officers are behaving on camera in a manner consistent with MPD officer standards. Technology that encodes video footage with officer identification codes could facilitate periodic review.</p> <p>If MPD funds are not adequate to establish and maintain an MVR program, seek appropriations from the District council and apply for grant funding from federal and private sources.</p>	

Table 38: Addressing Biased Policing in Washington, D.C.: Next Steps

(May 17, 2007)

MPD reports there was no change in status from what was reported in PCB's Fiscal Year 2009 annual report, with the exception that MPD states it reconvened the Fair and Inclusive Task Force in March 2012. PCB's recommendations and MPD's updates are available on OPC's website.